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Civil Rights in America: Racial Voting Rights

A National Historic Landmarks Theme Study

Cover photograph: NAACP photograph showing people waiting to register to vote, 1948.
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CIVIL RIGHTS IN AMERICA:
RACIAL VOTING RIGHTS

A National Historic Landmarks Theme Study

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CONTENTS

INTRODUCTION.....1

HISTORIC CONTEXTS

African American Voting Rights, 1865-1965
Part One: 1865-1900.....4
Part Two: 1900-1941.....14
Part Three: 1941-1954.....20
Part Four: 1954-1965.....31

American Indian Voting Rights, 1884-1965.....77

Hispanic And Asian American Voting Rights, 1848-1975.....109

NATIONAL HISTORIC LANDMARKS REGISTRATION GUIDELINES.....118

METHODOLOGY.....126

SURVEY RESULTS
Properties Recognized As Nationally Significant.....128
National Historic Landmarks Study List.....130
Properties Removed From Further Study.....132
Table 1. Properties Recognized as Nationally Significant.....136
Table 2. National Historic Landmarks Study List.....137
Table 3. Properties Removed from Further Study.....138

BIBLIOGRAPHY
African American.....139
American Indian.....145
Hispanic.....149
Asian American.....150
General.....151

APPENDICES
Appendix A. Selma To Montgomery March: Chronology Of Events.....153
Appendix B. Chronology Of Mississippi Voting Campaign, 1961-1964.....156
Appendix C. Chronology Of African American Voting Rights- Related Cases.....159

INTRODUCTION

In 1999 the U.S. Congress directed the National Park Service to conduct a multi-state study of civil right sites to determine the national significance of the sites and the appropriateness of including them in the National Park System. To determine how best to proceed, the National Park Service partnered with the Organization of American Historians to develop an overview of civil rights history entitled, *Civil Rights in America: A Framework for Identifying Significant Sites* (2002, rev. 2008). The framework concluded that while a number of civil right sites had been designated as National Historic Landmarks, other sites needed to be identified and evaluated. Taking this into account, the framework recommended that a National Historic Landmarks theme study be prepared to identify sites that may be nationally significant, and that the study be based on provisions of the 1960s civil rights acts. These include the Civil Rights Act of 1964 (covering voting rights, equal employment, public accommodations, and school desegregation enforcement), the Voting Rights Act of 1965, and the Fair Housing Act of 1968. This specific portion of the study focuses on the Voting Rights Act of 1965.

Inclusion in the National Park System first requires that properties meet the National Historic Landmark criteria, and then meet additional tests of suitability and feasibility. To establish guidance on meeting landmark criteria, this study provides a historic context within which properties may be evaluated for their significance in civil rights and creates registration guidelines for National Historic Landmark consideration. Completion of this study will also assist in the identification of sites for National Historic Landmark evaluation.

Voting Rights Overview

The Voting Rights Act of 1965 is "generally considered the most successful piece of civil rights legislation ever adopted by the United States Congress."* Congress adopted this act in response to the ongoing obstruction African Americans faced in exercising their right to vote. As a result, African Americans were overwhelmingly disenfranchised in many Southern states. The act's adoption followed nearly a century of systematic resistance by certain states to the Fifteenth Amendment guarantee of the right to vote regardless of race or color.

While the Voting Rights Act was adopted in response to the African American struggle, other racial groups also fought for enfranchisement. Hispanics, Asian Americans, and American Indians faced the same methods states used to exempt African American voters from the ballot box. Therefore, this study also describes voter discrimination issues faced by Hispanics, Asian Americans, and American Indians.

Study Format

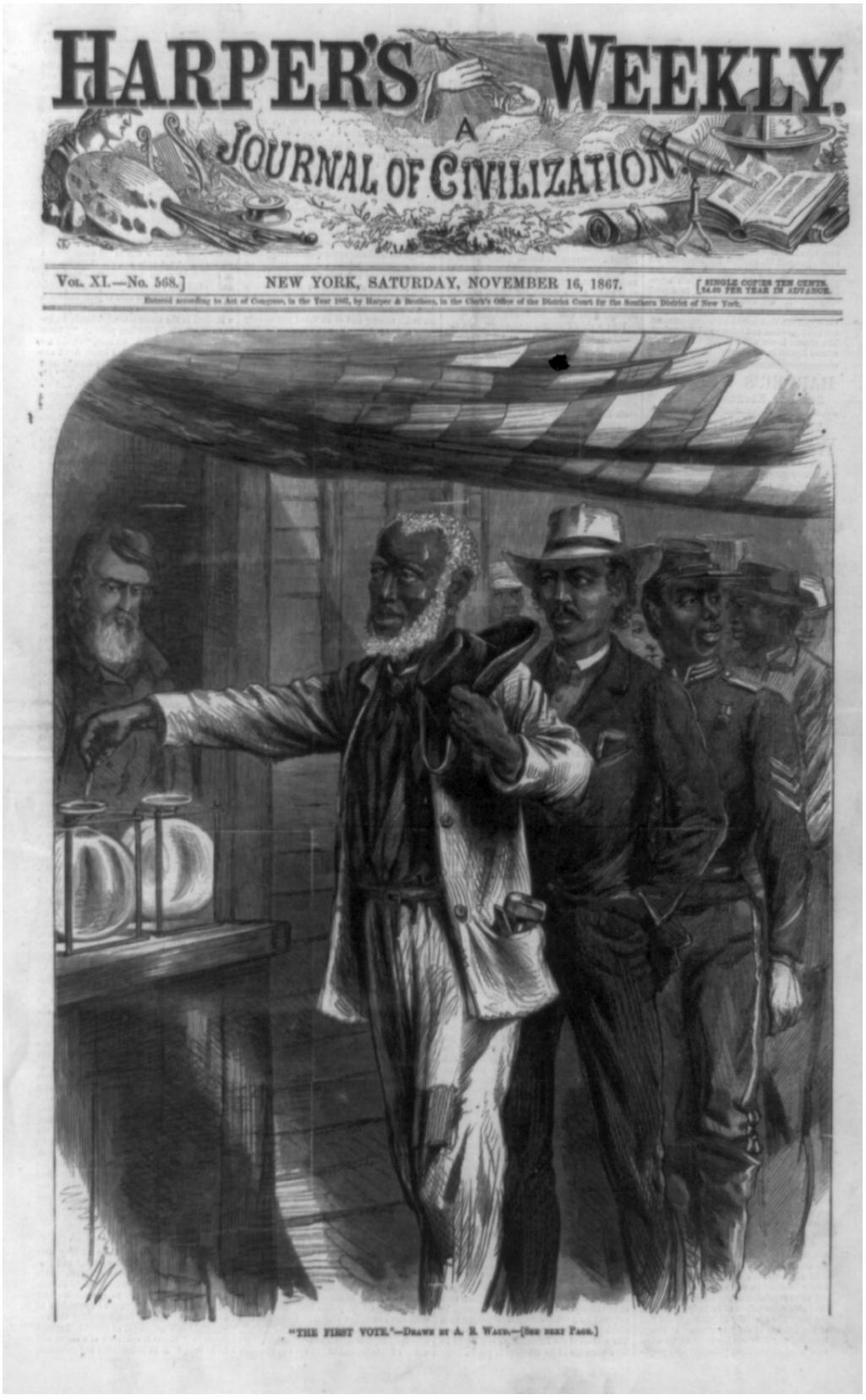
To establish guidance on meeting landmark criteria, this study provides a historic context within which properties may be evaluated for their significance in civil rights and establishes registration guidelines for National Historic Landmark consideration. The historic context contains separate essays on African American, American Indian, and the Hispanic and Asian American voting rights experience. All three stories begin at a different time period. The African American essay begins in 1865 with the abolition of slavery and the quest for the ballot. The American Indian essay begins in 1884 when the U.S. Supreme Court determined that

* Quote from "Introduction to Federal Voting Rights Laws," at http://www.usdoj.gov/crt/voting/intro/intro.htm, United States Department of Justice, Civil Rights Division, accessed on August 25, 2003.

Indians were not American citizens under the Fourteenth Amendment with the right to vote. The Hispanic essay begins in 1848 when the Treaty of Guadalupe Hidalgo granted U.S. citizenship to those who did not wish to retain their Mexican citizenship, and the Asian essay begins in 1878 when a federal court upheld the bar against naturalizing Chinese immigrants. The African American and American Indian essays end in 1965 when Congress passed the Voting Rights Act and the emphasis in voting rights changed from an individual right to one of fair representation. The Hispanic and Asian American essays end in 1975 when Congress extended protection of the Voting Rights Act to language minorities.

Registration guidelines then outline how properties may qualify for National Historic Landmark designation under this theme study. Subsequently, the methodology section describes how the survey proceeded. Properties identified during the course of the study are divided into three categories: 1) Properties Recognized as Nationally Significant, 2) National Historic Landmarks Study List, and 3) Properties Removed from Further Study. Three appendices conclude the study. Appendix A provides a chronology of the Selma to Montgomery march. Appendix B provides a chronology of the Mississippi Summer voting drive. Lastly, Appendix C lists African American voting rights-related cases.

AFRICAN AMERICAN VOTING RIGHTS, 1865-1965


HARPER'S WEEKLY.
A JOURNAL OF CIVILIZATION.
Vol. XI.—No. 568.] NEW YORK, SATURDAY, NOVEMBER 16, 1867.
"THE FIRST VOTE."—Drawn by A. R. Waud.—[See next Page.]

An illustration in Harper's Weekly entitled, "The first vote," 1867. Library of Congress, Prints & Photographs Division [reproduction number: LC-USZ62-97946]

PART ONE: 1865-1900[1]

The right to vote has held a central place in the black freedom struggle. With abolition of slavery, African Americans sought the ballot as a means to claim their first-class citizenship. When emancipated blacks pursued equality, they demanded the franchise on the same basis as that exercised by whites. Indeed, when Abraham Lincoln delivered his historic Gettysburg Address in 1863, universal white manhood suffrage existed in the North and the South. Democratic reforms over the previous half-century had whittled down property qualifications that excluded working class and poor white Americans from voting. Once slaves obtained freedom with passage of the Thirteenth Amendment, they intended to participate actively in the political process and help advance their interests.

Before emancipation, blacks residing in five New England states could vote. Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, which contained only 6 percent of the northern black population, had extended the right to vote to blacks. In New York, blacks owning $250 in freehold property could also cast a ballot; however, the same property qualification did not apply to whites. In the South, where the overwhelming number of African Americans labored as slaves, the right to vote was limited to whites.[2]

Emancipation

Even before the end of the Civil War, African Americans organized to campaign for the right to vote. In 1864, free blacks gathered in Syracuse, New York, to form the National Equal Rights League (NERL). One of those in attendance was Abraham Galloway, a fugitive slave, abolitionist, and Union spy. He and a delegation of blacks met with President Lincoln to endorse the suffrage for all African Americans. The president did not commit himself and was assassinated in April 1865 before the issue came to a resolution. After the war, Galloway moved to North Carolina and started chapters of the NERL to voice the political concerns of the state's African American population. Galloway told an audience in New Bern, if the "Negro knows how to use the cartridge box, he knows how to use the ballot box." In Wilmington, the NERL chapter demanded "all the social and political rights of . . . white citizens" and insisted "that blacks be consulted in the selection of policemen, justices of the peace, and county commissioners."[3]

Throughout the South in 1865 and 1866, ex-slaves and free blacks convened statewide conventions to agitate for their political rights. At these assemblies, speaker after speaker argued that the suffrage was "an essential and inseparable element of self government," and the delegates invoked the spirit of the Declaration of Independence to justify their cause.[4]

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[1] The author of this study's African American context, Steven F. Lawson, professor of history, Rutgers University, wishes to acknowledge the superb research assistance of his graduate student, Danielle McGuire.

[2] Leon F. Litwack, *North of Slavery* (Chicago: University of Chicago Press, 1960), 91.

[3] David Cecelski and Timothy Tyson, eds., *Democracy Betrayed: The Wilmington Race Riot of 1898 and Its Legacy* (Chapel Hill: University of North Carolina Press, 1998), 55 for the first quote; Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988), 111 for the second quote.

[4] Foner, *Reconstruction,* 114; Philip S. Foner and George E. Walker, *Proceedings of the Black National and State Conventions, 1865-1900* (Philadelphia: Temple University Press, 1986), xxi.

Blacks in Norfolk, Virginia pressed vigorously for the franchise. On April 4, 1865, the Colored Monitor Union Club met at Mechanic's Hall with the Reverend William I. Hodges presiding. The group resolved to "promote vision and harmony among the colored portion of the community and to enlighten each other on the important subject of the right of universal suffrage to all loyal men, without distinction of color . . . and to memorialize the Congress of the United States to allow colored citizens the equal right of the franchise with other citizens." Throughout April and May, African Americans held meetings at Mechanic's Hall and the Bute Street African Methodist Episcopal Church. They decided to test whether blacks would be allowed to vote throughout the city. In three of four wards, teams of potential black voters were rebuffed; only in Ward 2 were they allowed to vote. On June 15, Norfolk's blacks met at the Catherine Street Baptist Church and drew up and published an "Address to the People of the United States," which made the case for black enfranchisement.[5]

Black conventions in Alexander and Raleigh, North Carolina echoed their Norfolk counterpart. In the Tar Heel State's capital city, the State Convention of the Colored People of North Carolina met at the Loyal African Methodist Episcopal Church, popularly known as the Lincoln Church. James Walker Hood, the head of the African Methodist Episcopal Zion Church, presided and called upon the government to provide blacks equal protection of the laws, the franchise, and the right to sit on juries. In attendance was Abraham Galloway, who reportedly gave an address that "electrified" the crowd.[6]

Conventions expressing similar sentiments occurred in Augusta, Georgia; Lexington, Kentucky; Little Rock, Arkansas; Mobile, Alabama; and Washington, D.C. As with all the other gatherings, the church played an enormous role in political mobilization. For example, on January 30, 1866, the National Convention of Colored Men met at the Fifteenth Street Presbyterian Church in Washington, D.C., with the Reverend Henry Highland Garnet presiding. Delegates assembled from Alabama, the District of Columbia, Florida, Maryland, New York, Pennsylvania, Wisconsin, and six New England states. The convention endorsed "the right of impartial suffrage" and sent a delegation, headed by the ex-slave and abolitionist Frederick Douglass, to meet with President Andrew Johnson, who had succeeded Lincoln. On February 6, 1866, the black emissaries declared to the president that African Americans deserved the suffrage because of the fact that "we are subjects of the Government and subject to taxation, to volunteer in the service of the country, subject to being drafted, subject to bear the burdens of the State, makes it not improper that we should ask in the privileges of this condition." However, Johnson refused to be swayed. A Tennessee Democrat who opposed slavery not out of any moral consideration for African Americans but on the grounds that it held poor whites under the yoke of elite planters, Johnson had a very dim and racist view of African American capabilities for citizenship. He informed Douglass that granting blacks the franchise would result in "great injury to the white as well as the colored man." Douglass disparaged the chief executive's opinion as "unsound and prejudicial."[7]

Douglass proved correct. President Johnson did what he could to treat Confederate leaders leniently for their rebellion and prevent extension of civil and political rights to the freed people. In 1865 and 1866, he granted pardons to ex-Confederates and did not oppose the Black Codes

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[5] Foner and Walker, *Proceedings*, 80, 81.

[6] Ibid., 180; Cecelski and Tyson, *Democracy Betrayed*, 57.

[7] Foner and Walker, *Proceedings,* 210, 211.

that the southern states enacted to restrict free black labor and civil rights. The president vetoed two bills designed to provide economic and educational assistance to the ex-slaves and to furnish them equal rights under law. Dominated by Republicans who believed that the Federal government had to offer protection for black freedom, Congress repassed the Freedmen's Bureau Bill and the Civil Rights Act over Johnson's vetoes. Wary of Johnson's and the South's unwillingness to respect blacks as citizens, Congress also adopted the Fourteenth Amendment and sent it to the states for ratification. The amendment defined citizenship to include African Americans, and recognized their right to due process and equal protection under the law, but did not directly extend the right to vote to blacks. Instead, Section 2 of the amendment penalized states that deprived the vote to male citizens (women did not count) over the age of twenty-one. Thus, if a state kept African American men from voting, it would have its representation reduced proportionately in the lower house of Congress. The amendment was ratified in 1868, but the provision to reduce representation was never enforced despite obvious examples of disenfranchisement throughout subsequent history.

Congressional action did not deter continued resistance from the president and the South. Consequently, the Republican majority in Congress decided to take matters into its own hands. On March 2, 1867, Congress approved the first of three Military Reconstruction Acts, which ended Johnson's control over Reconstruction. The legislation divided 10 former Confederate States (Tennessee had already returned to the Union) into five military districts each under supervision of a Union general. The states had to hold constitutional conventions in which all male citizens, black and white, were eligible to vote. In adopting new state constitutions, the conventions had to guarantee suffrage to African Americans. In effect, this became the first extension of the right to vote to African Americans in the South. After approving the state constitutions, the biracial electorate would vote for legislatures that were required to ratify the Fourteenth Amendment.

The state constitutional conventions inaugurated under Military Reconstruction, a British observer commented, reflected "the mighty revolution that had taken place in America."[8] The constitutions guaranteed blacks civil and political rights, and black delegates played leading roles in the conventions. They helped create documents that for the first time extended public education to southern children of both races. Black representatives displayed a great deal of compassion toward whites, and constitutions crafted in Florida, Georgia, North Carolina, South Carolina, and Texas did not disenfranchise former Confederates. White Republicans more so than black Republicans were apt to punish ex-Confederates, and in Alabama, Arkansas, Louisiana, Mississippi, and Virginia, many of the South's old leaders lost the right to vote.[9]

Myths of *Black Reconstruction* notwithstanding, African Americans did not constitute a majority of the legislative bodies elected under the new constitutions. A combination of white Republicans from the North (so-called *Carpetbaggers*) and white southerners (*Scalawags*) outnumbered black legislators. Nevertheless, African Americans played a significant role in the

[8] Foner, *Reconstruction*, 316.

[9] Ibid., 324.

governing of the region. Over 1,400 blacks held offices during Reconstruction, and more than 600 blacks served in state assemblies, the majority of whom were former slaves.[10]

The largest number of blacks served as local officials in Louisiana, Mississippi, and South Carolina; the fewest number in Alabama, Florida, and Georgia. As historian Eric Foner has written, in 1870, "hundreds of blacks were serving as city policemen and rural constables; they comprised half the police force in Montgomery [Alabama] and Vicksburg [Mississippi], and more than a quarter in New Orleans [Louisiana], Mobile [Alabama], and Petersburg [Virginia]. In the courts, defendants confronted black magistrates and justices of the peace, and racially integrated juries."[11] Nineteen black men held office as sheriffs in Louisiana, as did fifteen in Mississippi. In Tallahassee, Florida and Little Rock, Arkansas blacks were elected chief of police, and in Donaldson, Louisiana and Natchez, Mississippi African Americans sat in the mayor's office. Only one African American occupied the office of state governor. In December 1872, Lieutenant Governor P. B. S. (Pinckney Benton Stewart) Pinchback of Louisiana succeeded Governor Henry Warmoth who had been suspended. Pinchback served for five weeks. Yet African Americans did hold a few high-level state posts. Jonathan C. Gibbs won the position of Florida secretary of state. James Lynch served as Mississippi's secretary of state, and Francis L. Cardozo occupied the office of secretary of state in South Carolina. In Louisiana, Oscar J. Dunn obtained the position of lieutenant governor, and Antoine Dubuclet won the post of state treasurer.[12]

Sixteen blacks also won election to Congress during Reconstruction. Two of them, Hiram Revels and Blanche K. Bruce, represented Mississippi in the Senate. Remarkably, nine of the sixteen, including Bruce, were born into slavery. Jefferson Franklin Long of Georgia provides an interesting example. He was born a slave in Knoxville, Georgia on March 3, 1836. Before the Civil War, Long's owner moved to Macon where Long lived at the time of emancipation. Having learned his trade as a slave, Long opened a tailor shop in Macon following the war. Income from the shop provided the financial security that allowed him to turn his attention to Georgia politics.

Long entered politics through the Georgia Educational Association. He attended the group's conventions and, by 1867, he spoke out in behalf of African Americans at Republican political rallies. Early in his career, Long influenced state politics by acting as an organizer and speechwriter for the Republican Party. In 1869, Long and other black Georgia leaders called for a state convention "to consider the interests of their race." A testament to his prominence in the black community, Long served as president of the Georgia State Colored Convention. The conference met in October and issued reports and resolutions related to the working and living conditions of freedmen. The conference also appointed a Committee on Outrages. It surveyed 45 Georgia counties and reported that "in four-fifths of them a frightful state of disorder prevails" due to white vigilante assaults against blacks. The convention demanded that Georgia

[10] Eric Foner, *Freedom's Lawmakers: A Directory of Black Officeholders during Reconstruction* (New York: Oxford University Press, 1993), xiv.

[11] Foner, *Reconstruction,* 362-63.

[12] Ibid., 353, 354, 355.

courts be reorganized to protect the safety of black residents and that "the military exercise vigilant care over the state."[13]

In December 1870, Georgia Republicans nominated Long for a term in the U.S. Congress. One Georgia newspaper claimed Long was chosen because he was "as light a mulatto and as little negro as they could find in the District, of the reading and writing sort." Still, Republicans viewed Long's candidacy as a way to appeal to black voters to support white Republicans. Of the three congressmen elected from Georgia in 1871, Jefferson Long was the only black, and he was elected to serve the shortest term. Congress had refused to seat Georgia's elected representatives in 1869. It only relented in July 1870. The December 1870 nominees included one who would serve out the final months of the 1869-1871 term and two who would begin serving full terms in March 1871. Nominated for the short term, Long took the oath of office on January 16, 1871, and served until March of that year. Despite his brief tenure, Long became the first African American to deliver an address in the House of Representatives.[14]

Fifteenth Amendment

Although the Military Reconstruction Acts ordered the southern states to adopt constitutions that granted blacks the franchise, Republicans in Congress endorsed a constitutional amendment to outlaw discrimination based on race that was subject to national protection and enforcement. In addition, the Reconstruction statutes only applied to southern blacks; in the North, most African Americans still could not vote. Racism was a national problem and not confined to the South. Between 1865 and 1868, white voters in Connecticut, Kansas, Michigan, New York, Ohio, and Wisconsin rejected referenda extending the ballot to blacks.[15] The Fifteenth Amendment, adopted in 1870, for the first time guaranteed protection against racial discrimination in voting for all African Americans throughout the nation. However, something of a compromise, the amendment did not affirmatively grant universal suffrage to male adults, but only banned discrimination on the basis of race. Left out from coverage were supposedly non-racial qualifications such as literacy tests and poll tax payments. This omission would prove devastating to African American political freedom in the decades to come.

By limiting coverage, however insufficiently to African American men, the Fifteenth Amendment created conflict among former abolitionists, women and men, blacks and whites. Frederick Douglass supported ratification of the amendment. Although a long time proponent of women's rights, he believed that freedmen could never protect their full citizenship rights without the ballot. Sojourner Truth, on the other hand, feared that if black men gained the suffrage but not black women, then gender discrimination in African American communities would mirror that of whites. White reformers were also divided. Abolitionist Wendell Phillips declared it was the "Negro's hour" and believed that any expansion of the right to vote, though confined to men, was welcome. He was supported by Lucy Stone and other former white abolitionists. In contrast, Elizabeth Cady Stanton and Susan B. Anthony saw the Fifteenth Amendment as a perpetuation of male domination and opposed any extension of political rights

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[13] Foner and Walker, *Proceedings,* quotes on 412 and 413.

[14] Foner, *Freedom's Lawmakers,* 136; John M. Matthews, "Jefferson Franklin Long: The Public Career of Georgia's First Black Congressman," *Phylon* 42 (2nd Qtr. 1981): 145-56.

[15] Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (Lanham, MD: Lexington Books, 1999), 2.

that excluded women. These splits remained alive until ratification of the Nineteenth Amendment in 1920, which enfranchised women.[16]

Women in Politics

As discussed above, the enfranchisement of blacks through the Military Reconstruction Acts and the Fifteenth Amendment applied to men only. Like their white counterparts, black women remained disenfranchised. Nevertheless, it must be emphasized that black women played an important role in politics even if they could not vote. Women actively participated in political meetings and organized political societies such as the Daughters of Liberty and the Daughters of the Union Victory. Because the church was central to black political mobilization and women were central to the church, they freely joined alongside men in planning strategy to acquire and exercise the vote. In Richmond, Virginia, the First African Baptist Church attracted thousands of black women and men in discussions of political developments. Outside this church, armed women stood guard to ensure the safety of those inside.[17]

In their roles as wives and mothers, women proved resourceful. In South Carolina, women took off from work and went to the polls to influence male family members and friends in casting their ballots and to monitor voting fraud perpetrated against blacks. Congressman Robert Smalls of South Carolina told a story of female power of persuasion reminiscent of the Greek comedy *Lysistrata*. "When John went to Massa Hampton and pledged his word to vote for him and returned back home," Smalls related, "his wife told him she would not give him any of that thing if you vote for Hampton. John gone back to Massa Hampton and said 'Massa Hampton I can't vote for you, for woman is too sweet, and my wife says if I vote for you she won't give me any'."[18] Black women openly sported campaign buttons on their clothes for their favorite candidates. The *Georgia Weekly Telegraph* in Macon commented on the enthusiasm black women exhibited during elections: "The negro women, if possible, were wilder than the men. They were seen everywhere, talking in an excited manner and urging the men on. Some of them were almost furious, showing to be part of their religion to keep their husbands and brothers straight in politics."[19] Thus, long before black women could formally cast ballots, they participated in a variety of critical ways in the electoral process.

The End of Reconstruction

By 1870, although blacks continued to vote and participate politically, they increasingly encountered resistance. What white southern Democrats called *Redemption*—the recapture of political control from the Republicans—meant retrenchment of black political opportunities. As early as 1869, the Democrats regained control of the government in Tennessee, and the following year in Virginia and North Carolina. The Republicans fell in Georgia in 1871, Texas in 1873,

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[16] Nell Irvin Painter, *Sojourner Truth: A Life, A Symbol* (New York: W. W. Norton, 1996), passim; Ellen Carol DuBois, *Feminism and Suffrage: The Emergence of an Independent Women's Movement in America, 1848-1869* (Ithaca: Cornell University Press, 1978), passim.

[17] Elsa Barkley Brown, "Negotiating and Transforming the Public Sphere: African American Political Life in the Transition from Slavery to Freedom," *Public Culture* 7 (Fall 1994): 110, 122-23.

[18] Dorothy Sterling, ed., *We are Your Sisters: Black Women in the Nineteenth Century* (New York: W. W. Norton, 1984), 370. Smalls was referring to Wade Hampton, the Redeemer governor of South Carolina.

[19] Tera W. Hunter, *To 'Joy My Freedom': Southern Black Women's Lives and Labors after the Civil War* (Cambridge: Harvard University Press, 1997), 32.

Alabama and Arkansas in 1874, Mississippi in 1876, and Florida, Louisiana, and South Carolina in 1877.

Violence played a large part in Republican defeats. The Ku Klux Klan, born in Pulaski, Tennessee in 1865, along with other white vigilante groups such as the Knights of the White Camellia, unleashed a reign of terror throughout the South to intimidate African Americans and their white allies from voting. Klansmen inflicted beatings, committed rape and murder, and drove families from their homes. For example, in Meridian, Mississippi in March 1871, Klansmen killed a white Republican judge and two black defendants in his courtroom. A day of rioting followed during which 30 blacks, including "all the leading colored men of the town with one or two exceptions" were gunned down.[20] Throughout their ordeal, African Americans braved great risks to go to the polls, but each year their numbers dwindled. Furthermore, once Democrats returned to power, they enacted measures to restrict black suffrage, such as poll tax requirements, which fell hardest on the poor.

Congress took strong action to combat the violence. In 1870 and 1871, lawmakers enacted legislation that made it a federal crime for private organizations like the Klan to deprive citizens of their civil rights. Federal agents rounded up thousands of Klansmen, and grand juries indicted more than 3,000 members. The government had to try these cases before all-white juries in many instances, which limited the convictions to some 600 Klan members. Nevertheless, these prosecutions had a chilling effect on the Klan and helped defuse its power by the mid-1870s.[21] Indeed, from 1873-1875, black representation in Congress grew from five to eight, and African Americans still held office throughout the South.

However, armed violence did not cease despite federal efforts. In Alabama, where Republicans still ruled in 1874, the Democrats waged a campaign of fraud and terror to topple their opponents. In August, two Sumter County Republican leaders, one black and one white, were killed, and on election day a mob murdered seven blacks and wounded nearly 70 others. The following year in Mississippi, white marauders went on a rampage to keep blacks from casting their ballots throughout the state and succeeded in what historian Eric Foner refers to as *redeeming* the state government for the Democrats. In much the same manner, the final three Republican governmental holdouts in Florida, Louisiana, and Mississippi fell to the Democrats in 1876. Blood flowed especially freely in South Carolina. In Hamburg, a "massacre" left six blacks dead, hundreds injured, and the black business district in shambles.[22]

At around the same time, the U.S. Supreme Court made it more difficult for the Federal government to combat this kind of violence. The high tribunal considered a case arising from the "Colfax Massacre" at the court house in Grant Parish, Louisiana. On Easter Sunday 1873, white Democratic supporters killed at least 50 blacks over a disputed gubernatorial election, marking the "bloodiest single instance of racial violence in the Reconstruction Era in all of the United States."[23] In 1876, the Court ruled in *United States v. Cruikshank* that the Justice Department could not use the Enforcement Acts to prosecute private individuals for civil rights

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[20] Eric Foner, *A Short History of Reconstruction* (New York: Harper & Row, 1990), 185.

[21] Foner, *Reconstruction*, 459.

[22] Ibid., 552-53, 562, 571.

[23] "*The Cabildo*," at http://lsm.crt.state.la.us/cabildo/cabildo.htm, maintained by the Louisiana State Museum, accessed on March 9, 2009.

violations; the Federal government could only prosecute state officials.[24] The Court had knocked out the main prop supporting the Federal government's legal strategy for combating violence against African Americans. At the same time, the Court affirmed in *United States v. Reese* the power of the national government to prosecute voting rights infractions based on race under the Fifteenth Amendment.[25] The problem of convincing white juries to convict perpetrators remained. The final blow to Reconstruction came in 1877, when newly elected president, Rutherford B. Hayes, removed the remaining federal troops stationed in the South.[26]

Disenfranchisement I

Historian Michael Perman has charted the course of disenfranchisement in two stages. He characterized the first as "vote manipulation"—by using election laws of "various levels of ingenuity and Democratic election officials of varying degrees of criminality." These techniques began in the early 1880s and lasted for about a decade. The second phase consisted of systematic attempts through the adoption of constitutional amendments to drastically reduce black suffrage, which prevailed from 1890 to 1908.[27]

The adoption of the secret ballot provides a clear example of the first stage of disenfranchisement. Considered a reform to protect the privacy of the voter and prevent intimidation at the polls, the secret or Australian ballot operated as a literacy test to disenfranchise the uneducated. Prior to the secret ballot, voters went to the polls with printed ballots distributed by political parties with their candidates' names on them. The secret ballot system prohibited the use of this material and required voters to make their choices from the numerous names and offices printed on official ballots, a task that many of them could not perform. Whatever standards of "good government" the secret ballot may have represented, in the South it "furnishes . . . the only method by which they can get rid of the great bulk of the colored vote in a legal, peaceful and unobjectionable manner," a journalist reported in 1892.[28]

South Carolina provided a clever variation on this form of disenfranchisement. In 1882, the Palmetto State adopted an "Eight Box Law," which established eight separate ballot boxes to correspond with national, state, and local contests. Voters had to place their ballots in the proper

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[24] *United States v. Cruikshank*, 92 U.S. 542 (1876).

[25] *United States v. Reese*, 92 U.S. 214 (1876); David G. Nieman, *Promises to Keep: African Americans and the Constitutional Order, 1776 to the Present* (New York: Oxford University Press, 1991), 98-99.

[26] Hayes had lost the popular vote to the Democratic candidate, Samuel J. Tilden. However, his supporters in Congress secured agreement to count 20 disputed electoral votes, 19 of them from Florida, Louisiana, and South Carolina, in his favor, thereby giving him a one-vote majority for election. Before the votes were counted, Hayes's Republican managers met with southern Democrats at the black-owned Wormley Hotel in Washington, D.C. and entered into a bargain that would provide victory for Hayes and in return he would order troops out of the South, appoint a southerner to his Cabinet, and support the building of a railroad through the South. Foner, R*econstruction*, 590.

[27] Michael Perman, *Struggle for Mastery: Disfranchisement in the South, 1888-1908* (Chapel Hill: University of North Carolina Press, 2001), 6.

[28] Perman, *Struggle for Mastery,* 20; J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South 1880-1910* (New Haven: Yale University Press, 1974), 51-53.

boxes or have them thrown out. Like the secret ballot laws in use elsewhere, the South Carolina measure functioned as a confusing literacy test.[29]

Nevertheless, states did not have an absolutely free hand in excluding black voters. Two Supreme Court decisions upheld the power of the Federal government to prosecute suffrage violations. In *Ex parte Siebold*, the Court affirmed the conviction of a state election judge in Maryland who interfered with federal supervisors during an election. In *Ex parte Yarbrough*, the high tribunal upheld the convictions of nine members of a white terrorist group, the Pop and Go Club, who beat a black man at his home to prevent him from casting his ballot in a congressional election in Georgia.[30] Speaking for the unanimous Court, Justice Samuel Miller eloquently argued: "If the government of the United States has within its constitutional domain no authority to provide against these evils . . . then, indeed, is the country in danger, and its best powers, its highest purposes, the hopes which it inspires, and the love which enshrines it, are at the mercy of the combinations of those who respect no right but brute force on the one hand, and unprincipled corrruptionists on the other."[31] Notwithstanding these stirring words, in 1890, Congress failed to pass a measure introduced by Henry Cabot Lodge, a Massachusetts Republican, to extend federal supervision over southern elections. Although the bill passed the House, Senate Republicans, seeking an alliance with southern Democrats on economic issues they considered more important than racial reform, helped defeat the measure.[32]

Even with successful efforts to reduce black voting, African Americans continued casting their ballots and occupying public office in the South. In 1888, seven blacks sat in the Mississippi legislature. Black congressmen went to Washington, D.C. from North Carolina and Virginia. Indeed, factional struggles within the Democratic Party helped keep alive black voting. As wealthy conservatives battled opponents who represented poor whites, each side attempted to mobilize blacks to swing the balance of power in its favor. During the 1880s, the most successful coalition of blacks and impoverished whites appeared as the Readjusters in Virginia. Fusing with Republicans, the Readjuster Party captured the governorship in 1881, and the state legislature promptly repealed the poll tax. Its power came to an abrupt halt in 1883, when its Democratic enemies embarked on a campaign of violence and fraud, culminating in the Danville Riot. Still, black participation did not cease, and African Americans continued to serve on juries and in public office.[33]

The Populist revolt in the 1890s temporarily invigorated interracial political coalitions that highlighted the importance of the black vote. A revolt of small and middle-size farmers and workers against wealthy conservatives, in the fashion of the Readjusters, Populists throughout the South campaigned for reforms to extend economic and political democracy. Tom Watson, a leading Georgia Populist, explained the need for biracial alliances: "The accident of color can

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[29] Lawson, *Black Ballots*, 6.

[30] *Ex parte Siebold*, 100 U.S. 371 (1879); *Ex parte Yarbrough*, 110 U.S. 651 (1884); Perman, *Struggle for Mastery,* 38.

[31] *Ex parte Yarbrough*, 667; Nieman, *Promises,* 99.

[32] Lawson, *Black Ballots*, 8.

[33] Jane Dailey, *Before Jim Crow: The Politics of Race in Postemancipation Virginia* (Chapel Hill: University of North Carolina Press, 2000), 121-26; Suzanne Lebsock, *A Murder in Virginia: Southern Justice on Trial* (New York: W. W. Norton, 2003), 71.

make no difference in the interest of farmer, [share]croppers, and laborers. You are kept apart that you may be separately fleeced of your earnings."[34]

Populist successes elicited a potent counteraction from Democrats. They played the race card to unite whites around one party rule, thereby removing the bulk of blacks from the electorate so that they could not take advantage of divisions among whites. To regain power, Democrats tarnished the Populists for appealing to African Americans and threatening white control over politics. The Populist commitment to racial equality proved very thin. Placed on the defensive, most Populists abandoned their African American allies and returned to the Democratic Party to fight their battles. In the name of reform, whites of various political stripes, including Populist leader Tom Watson, targeted blacks as the source of all electoral evil and corruption and took measures to purify politics by banishing African Americans from participation.

Disenfranchisement II

Between 1890 and 1908, the seven southern states of Mississippi (1890), South Carolina (1895), Louisiana (1898), North Carolina (1902), Alabama (1901), Virginia (1902), and Georgia (1908) adopted constitutional amendments that virtually excluded blacks from suffrage and greatly reduced poor white participation, primarily through literacy/understanding tests and grandfather clauses. In Tennessee, Arkansas, Florida, and Texas, white legislators continued to implement the secret ballot and poll tax requirements to achieve disenfranchisement.

Literacy tests, if administered fairly, would have disenfranchised a considerable number of poorly educated blacks and whites. Instead, white registrars decided who passed the exam, and they used their discretion mainly against African Americans. In 1890, the Mississippi constitutional convention adopted a literacy qualification that would become the model for the region. It provided an illiterate suffrage applicant the option of enrolling if he could "understand any section of the state constitution read to him . . . or give a reasonable interpretation thereof." In this way, voting officials denied registration to blacks but not whites, however unable to read and write the whites might have been. Supposedly to test literacy, Mississippi registrars asked only blacks such absurd questions, which they and no one else could possibly answer, such as "How many bubbles are in a bar of soap?"[35] In addition to the Magnolia State, Alabama, Georgia, Louisiana, North Carolina, South Carolina, and Virginia adopted literacy tests.[36]

In 1898, the U.S. Supreme Court validated Mississippi's literacy test. The case, *Williams v. Mississippi*, resulted from the conviction for murder of Henry Williams, an African American, by an all-white jury. Williams filed an appeal arguing that he did not receive a fair trial because blacks were excluded from the jury. Because the jury list was drawn from the voting rolls, the suffrage provisions of Mississippi's 1890 Constitution came under scrutiny. The Court ruled that the literacy test was written in a manner that did not discriminate on the basis of race, and consequently the tests themselves served as a legitimate means of discerning voter eligibility. A rejected voter would have the difficult burden of proving in court that the exam had been

[34] C. Vann Woodward, *Origins of the New South, 1877-1913* (Baton Rouge: Louisiana State University Press, 1951), 257.

[35] Lawson, *Black Ballots*, 11, 146; Perman, *Struggle for Mastery,* 83.

[36] Kousser, *The Shaping of Southern Politics,* 239.

administered in a racially biased way. In the 1890s, as the South consolidated white supremacy and imposed racial segregation, this became a virtually impossible task.[37]

Louisiana added a wrinkle to the literacy test that spared illiterate whites the need of having to take the exam. In 1898, delegates to the state constitutional convention met to eliminate "the Senegambian [African American] from politics as far as can be done under the Constitution of the United States," and pointed to the example of Mississippi.[38] In fashioning their state's literacy exam, Louisiana officials included a "grandfather clause," which suspended the requirement for those males eligible to vote on or before January 1, 1867, as well as their descendants. In order to qualify under this regulation, applicants had to register by September 1, 1898. On its face, the section did not make any mention of race, but the provision was obviously designed to exclude blacks from taking advantage of it, for the Military Reconstruction Acts and the Fifteenth Amendment, which enfranchised blacks, went into effect after the stipulated date. North Carolina, Alabama, and Georgia followed Louisiana in adopting the grandfather clause.[39]

PART TWO: 1900-1941

The combination of poll taxes, secret ballots, literacy/understanding tests, grandfather clauses, and the biased manipulation of these registration procedures achieved the goal of disfranchising the overwhelming number of African Americans. Once Louisiana adopted its new constitution in 1898, the number of black voters plummeted from 130,000 to 5,000. In Virginia, the number dropped from 147,000 to 21,000. The Constitutional Convention in Mississippi cut black enrollment from approximately 147,000 to around 8,600. In 1906, five years after Alabama designed its exclusionary suffrage proposals, only 2 percent of the black voting-age population remained on the registration books.[40] The last black congressman from the South until the early 1970s, George H. White of North Carolina, departed the House in 1901.

The relatively few black southerners who still could vote encountered a final hurdle in making their ballots count: the white Democratic Party primary. Once upper-class whites managed to snuff out the biracial political threat posed by the Populists, the Democratic Party again reigned supreme. Although Republicans continued to exist, and indeed blacks operated within their ranks, they posed little danger for the reunited Democrats. The class struggle that had divided wealthy and poor whites and that occasioned third parties persisted mainly within the confines of the Democratic Party. To exclude blacks from exercising renewed political leverage, white Democratic officials closed their doors to African Americans. By excluding blacks from their primaries, they stopped African Americans from voting in the sole contest that counted in the one-party Democratic South. Without the white primary, a progressive North Carolina newspaper editor explained, "the divisions among white men might result in bringing about a return to deplorable conditions when one faction of white men called upon the negroes to help defeat another faction."[41]

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[37] *Williams v. Mississippi*, 170 U.S. 213 (1898); Perman, *Struggle for Mastery*, 121.

[38] Perman, *Struggle for Mastery,* 134.

[39] Lawson, *Black Ballots*, 13; Perman, *Struggle for Mastery*, 140-42.

[40] Lawson, *Black Ballots*, 14-15.

[41] Ibid., 13; V. O. Key, Jr., *Southern Politics in State and Nation* (Knoxville: University of Tennessee Press, 1984), 619-43. During the Progressive Era, northerners also adopted primaries. Presented as a means of wresting power

The NAACP and the Challenge to Disenfranchisement

As polling places shut out black voters in the South, northern blacks and whites took notice. In 1909 and 1910, a group of black intellectuals and political activists joined with the descendants of white abolitionists and professional social workers to establish the National Association for the Advancement of Colored People (NAACP). In fact, the spark that ignited those to form the group occurred in the North and not the South. A bloody riot against blacks in Springfield, Illinois in 1908 prompted prominent individuals such as W. E. B. Du Bois, social workers Jane Addams and Mary White Ovington, and Oswald Garrison Villard, crusading newspaper editor and scion of the heralded abolitionist William Lloyd Garrison to create the NAACP as a vehicle for obtaining black enfranchisement and equality under the law.

Du Bois, who held a doctorate from Harvard, was the leading black intellectual of the 20th century. Prior to his participation in the NAACP, he taught sociology at Atlanta University and had been a co-founder of the Niagara Movement, the forerunner of the NAACP. The movement was a short-lived, all-black organization that advocated first-class citizenship for African Americans. In his classic book of essays, *Souls of Black Folk*, published in 1903, Du Bois asserted that "Negroes must insist continually that voting is necessary to modern manhood" and urged blacks "to protest emphatically . . . against the curtailment of their political rights."[42] In advocating this approach, he challenged that of Booker T. Washington, the former slave, black educator, and founder of Tuskegee Institute in Alabama. Washington was the most powerful African American of the late 19th and early 20th centuries. Washington opposed voting regulations that discriminated against blacks no matter their educational and economic attainment while at the same time allowing the least educated and most impoverished white men to vote. However, at a time when lynching was on the rise and segregation and disenfranchisement were becoming solidified, Washington advocated accommodation instead of outspoken protest of white supremacy. Self-help played a larger part in his strategy for black advancement than did political involvement. In contrast, Du Bois's NAACP directly challenged racial inequality.[43]

The NAACP mainly chose the judicial path to securing the right to vote. At about the same time that the national association came into existence, the state of Oklahoma added the grandfather clause to its constitution. The provision excused from taking the literacy test anyone who was entitled to vote on January 1, 1866 or "anyone who was a lineal descendant of such persons." Although the clause did not refer to race, the Justice Department prosecuted two Oklahoma registrars, Frank Guinn and J. J. Beal, for exempting whites but not blacks from having to take the literacy exam. A jury convicted the registrars under the terms of the 1870 Enforcement Acts, and the defendants appealed all the way up to the Supreme Court. In *Guinn v. United States*, the NAACP filed an *amicus curiae* brief that along with the government's brief did not challenge the validity of the literacy test. Rather the lawyers argued that the grandfather clause operated to

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from political cliques and extending democracy to the popular masses, many Progressive Era reforms had a dark side. In the North, middle- and upper-class whites designed primaries, commission forms of government, and at-large elections to reduce the influence of working-class immigrants.

[42] W. E. B. Du Bois, *The Souls of Black Folk* (New York: New American Library, 1969), 91; Lawson, *Black Ballots*, 16; David Levering Lewis, *W. E. B. Du Bois, 1868-1919: Biography of a Race* (New York: Henry Holt and Company, 1993), 288.

[43] Louis R. Harlan, *Booker T. Washington: The Making of a Black Leader, 1856-1901* (New York: Oxford University Press, 1972), passim.

discriminate against African Americans who were unable to vote in 1866. In 1915, the Supreme Court agreed.[44]

From a practical standpoint, the NAACP's victory in *Guinn* amounted to very little. Striking down the grandfather clause did not invalidate literacy exams, which still provided white registrars the opportunity to keep blacks off the voting rolls. The clause itself had been designed to help illiterate whites by excusing them from having to pass a literacy exam and only if they took advantage of the chance within a brief time frame. Moreover, the Federal government had brought proceedings in Oklahoma mainly for political reasons. At the behest of a Republican U.S. District Attorney who wanted to recruit black support for white GOP candidates in the Sooner State, the Justice Department became involved. Furthermore, President William Howard Taft viewed the case as an opportunity to appeal to black delegates for his renomination at the Republican convention of 1912, where he faced stiff competition from former president Theodore Roosevelt.[45]

In any event, the outcome of *Guinn* proved symbolic, as Oklahoma's response reflected the pattern that other efforts to remove voting barriers through lawsuits would follow in the years to come. States made every effort to evade the Court's rulings by tailoring their laws to modify but still retain the results of offensive suffrage provisions. In 1916, Oklahoma lawmakers enacted a statute that froze in place the names of people who had voted in 1914, and gave those who had not voted two weeks to register or remain permanently disenfranchised. In effect, this allowed whites who had qualified under the grandfather clause to stay on the suffrage rolls, whereas blacks, who before 1914 were unable to take advantage of the clause, were given only a brief time to register or else continue to lose their right to vote. This subterfuge went unchallenged for over two decades, until in 1939, Robert Lane from Waggoner County, Oklahoma and his NAACP attorneys convinced the Supreme Court to void it. In *Lane v. Wilson* the justices viewed the 1916 law as merely a clever means of keeping the effects of the grandfather clause intact, and Justice Felix Frankfurter underscored that the Fifteenth Amendment "nullifies sophisticated as well as simpleminded modes of discrimination."[46]

Women's Suffrage

Prior to ratification of the Nineteenth Amendment in 1920, black women continued to participate in politics. In fact, black women actively voted in non-electoral arenas, such as church conferences and temperance organizations. In electoral politics, black women found ways to encourage black men to vote. In North Carolina, during the 1896 election, Sarah Dudley Pettey and other middle-class black women went into working-class black sections of Raleigh to convince "wives, sisters, and mothers . . . to influence their husbands, brothers, and sons."[47] In 1898, the "Organization of Colored Ladies" in Wilmington warned the city's black men: "Every Negro who refuses to register his name . . . that he may vote, we shall make it our business to deal with him in a way that will not be pleasant. He shall be branded a white-livered coward

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[44] Lawson, *Black Ballots*, 18, 19; *Guinn v. United States*, 238 U.S. 347 (1915).

[45] Kermit L. Hall, *The Oxford Companion to the Supreme Court of the United States* (New York: Oxford University Press, 1992), 356.

[46] *Lane v. Wilson*, 307 U.S. 268, 275 (1939).

[47] Glenda Elizabeth Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896-1920* (Chapel Hill: University of North Carolina Press, 1996), 102.

who would sell his liberty."[48] After the Tar Heel State and the rest of the South imposed measures to disenfranchise the bulk of African American males, women's influence as collateral agents in electoral politics also declined. Nevertheless, black women continued to wield their collective power through church and civic groups to advance the race.

The Nineteenth Amendment provided limited opportunities for African American women to enter the electoral arena, as they faced the same problems as did African American men with respect to poll taxes and literacy requirements. Those relatively small numbers that did join black men on the suffrage rolls also found themselves effectively excluded by the white Democratic primary from voting in the South's key political contests. Nevertheless, black female and male voters could participate in non-partisan elections at the local level, in which the Democratic primary did not figure. Tampa, Florida offers a case in point.[49]

Tampa women would have an early opportunity to test their electoral power. A feud between white men over ward-based versus city commission government had raged for several years. Commission supporters wanted to reduce electoral graft and the strength of mainly Spanish, Cuban, and Italian immigrants, and to a lesser extent, after the introduction of the white primary in 1910, African American voters who could influence the choice of representatives from racially- and ethnically-homogeneous districts under the ward system. In July 1920, a Charter Commission, elected under the white primary, proposed the replacement of the ward-based city council with a commission, all five members of which would be elected at large. A binding referendum on the issue was scheduled for October.

Ratification of the Nineteenth Amendment only heightened the concerns of white political leaders. A number voiced anxiety about "what the woman voter [will] do with her newly acquired rights and privileges."[50] The state Democratic Party chairman began urging white women to register in order to counterbalance the feared influx of their black counterparts. In September, when the state attorney informed Tampa officials that the charter issue could not be resolved through the white Democratic primary but must be introduced to the general electorate, including newly-enfranchised women, the recruitment of white women voters intensified. City officials aided the effort by assuring local residents that blacks would be assigned to separate lines at polling places, thereby forestalling fears of racial mingling.

The concern voiced by white civic leaders about the potential political power of black women was not simply a convenient argument for inspiring racial fears and inducing white women to vote. Such fears were certainly at work in charter advocates' claims that their opponents were attempting to mobilize "the suffrage of the purchasable colored women of the city."[51] But black women in Tampa, over half of whom were in the paid labor force in 1920, were eager to participate for their own reasons.

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[48] Ibid., 107.

[49] The following pages on Tampa are excerpted with permission of Nancy A. Hewitt from *Southern Discomfort: Women's Activism in Tampa, Florida, 1880s-1920s* (Urbana: University of Illinois Press, 2001), 237-42.

[50] Hewitt, *Southern Discomfort*, 238.

[51] Nancy A. Hewitt, "In Pursuit of Power: The Political Economy of Women's Activism in Twentieth-Century Tampa," in *Visible Women: New Essays on American Activism*, ed. Nancy A. Hewitt and Suzanne Lebsock (Urbana: University of Illinois Press, 1993), 209.

As a result of both the contest over charter reform and the advent of women's suffrage, African American registration peaked in 1920 with 18.5 percent of local blacks signed up to vote, including nearly 1,298 women, who formed over 60 percent of the total black registrants. They claimed the right to vote both to redress black men's disenfranchisement and to expand upon their earlier efforts at community uplift. Inez Alston, for instance, had gained respect and experience in public speaking as a teacher and clubwoman. In fall 1920, she presided over a series of debates on charter reform held at black churches such as Bowman Methodist Episcopal.

Awareness of activism in African American neighborhoods and fear that such efforts would disrupt existing racial hierarchies help to explain why so many whites, already in control of elections through the white primary, felt it necessary to further dilute minority voting power through at-large elections. These fears of black political power, which drove the establishment of the white primary a decade earlier, assured that white civic leaders would rush to enlist the electoral aid of their female counterparts immediately upon their enfranchisement.

The white women fulfilled their duty. On October 20, the *Tampa Tribune* headline proclaimed, "Charter Wins by 770, Commission Plan Triumphant Despite a High Vote Cast Against in the Town's Black Belt." The story credited the victory to white women who recognized "that it was largely a contest between their votes and those of negroes" and that the new charter provided "a weapon by means of which they could protect their homes and children." The report concluded, "Tampa women have shown they are able to rock the cradle and the politicians at the same time."[52]

Despite the attempts of black Tampans organizing for voting rights, white civic leaders rejected the possibility that African American women and men might justifiably pursue political power on their own terms. Yet the presence of hundreds of black voters revealed their ongoing desire for political power. Unfortunately, even when African Americans did organize on their own behalf, they could still be defeated by the combination of racism and political corruption. The advent of women's suffrage did little to change that volatile mix.

The NAACP's Challenge of the White Primary: Opening Rounds

Whatever participation southern blacks exhibited in non-partisan municipal elections, such as those in Tampa, was offset by their exclusion from white Democratic primaries. In 1923, the Texas legislature, dominated by supporters of the recently revived Ku Klux Klan, barred African Americans from voting in Democratic contests. In response, the El Paso branch of the NAACP asked the national office to file suit against the lily-white primary. Lawrence Aaron (L. A.) Nixon, an El Paso physician and head of the local NAACP branch, served as the plaintiff after the election official, C. C. Herndon, blocked him from voting in the July 26, 1924 Democratic primary.

On March 7, 1927, Justice Oliver Wendell Holmes and his Supreme Court brethren unanimously upheld the NAACP's position in *Nixon v. Herndon*. Holmes argued that the white primary violated the Fourteenth Amendment's guarantee of equal protection under the law by excluding blacks from participation. He did not rule whether the Fifteenth Amendment covered voting in a primary conducted by a political party. Previous court rulings suggested party primaries were

[52] Hewitt, *Southern Discomfort*, 241.

separate from state-sponsored elections. However, in this case, state action was clearly involved in black exclusion, thus depriving African Americans of equal treatment.[53]

Texas Democratic officials had no intention of opening their primary to African Americans. A few months after the Supreme Court ruling, the legislature decreed that it was up to the party executive committee, and not state lawmakers, to determine the qualifications of party members. Thus, the Democratic Party, supposedly a private organization, would not violate the Fourteenth Amendment. Nixon filed suit again after another election official, James Condon, refused to furnish him a ballot to vote in the primary. This time the Supreme Court narrowly decided in Nixon's favor. In 1932, speaking for the majority in *Nixon v. Condon*, Justice Benjamin Cardozo declared that the Democratic Executive Committee had received its authority to determine membership through state legislation, and by excluding blacks had violated the Fourteenth Amendment. Cardozo left open the possibility, however, that a party convention, independent of state authority, could decide its own membership requirements and exclude Afro-Texans from participation.[54]

Not surprisingly, a few weeks after *Nixon v. Condon*, the Democratic Party held a convention and voted to keep its primary all white. The persistence of white Texans finally paid off. The Supreme Court upheld their action. Weakened financially and worried about whether it could win, the NAACP decided to refrain from mounting a fresh legal challenge. However, a group of blacks in Houston, under the auspices of the Negro Democratic Club, decided to pursue litigation without the NAACP's support. Richard R. Grovey, became the plaintiff in the new case. Active in organizing blacks to vote through his Third Civic Ward Club, he enlisted the aid of Carter Wesley, the editor of the black *Houston Informer*, and J. Alston Atkins, a prominent black attorney. Both men had wanted the NAACP to use more black lawyers in the Nixon cases, but the association relied mainly on distinguished white attorneys from its national board. On this occasion, with the NAACP declining to file suit, the local black Houstonians handled the litigation. In the end, the NAACP's concerns proved correct, and on April 1, 1935, the Supreme Court, in *Grovey v. Townsend*, unanimously upheld the latest version of the white primary. Justice Owen Roberts concluded that despite state regulation of primaries, the party determined its own members and conducted the contest with its own funds.[55] For the next decade, the Supreme Court ruling kept Democratic primaries in the South open only to whites.

Franklin D. Roosevelt and the New Deal

President Franklin D. Roosevelt's New Deal to provide relief and recovery from the Great Depression offered some significant political assistance to African Americans. Much of the benefit was indirect. Because his first priority was to end the Depression and maintain close relations with southern Democrats in Congress whose support he needed to enact his programs, Roosevelt did not propose a civil rights agenda. He believed that African Americans, as an impoverished class, would gain more from measures that stimulated the economy than from any race-based legislation. Thus, the president's New Deal agencies failed to challenge segregation and were administered in the South to the detriment of blacks. Furthermore, in the late 1930s

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[53] *Nixon v. Herndon*, 272 U.S. 536 (1927).

[54] *Nixon v. Condon*, 286 U.S. 73 (1932).

[55] *Grovey v. Townsend*, 295 U.S. 45 (1935); Lawson, *Black Ballots*, 25-35; Merline Pitre, *In Struggle against Jim Crow: Lulu B. White and the NAACP, 1900-1957* (College Station: Texas A&M University Press, 1999), 19-24.

and early 1940s, when proposals to make lynching a federal crime and to abolish the poll tax were introduced, Roosevelt gave them lukewarm support, and they went down to defeat in the Senate.

Still, the Roosevelt Administration encouraged African Americans to gain increased political access to government. Although blacks faced discriminatory treatment in the application of New Deal programs, especially in the South, they did manage to participate alongside whites. For example, under New Deal agricultural plans, black and white farmers voted each year in determining production levels for cotton. In this way, blacks sustained a suffrage tradition in spite of their exclusion from Democratic Party primaries. In addition, the president made a number of high-level appointments of African Americans including Mary McLeod Bethune and Robert C. Weaver, who held a Ph.D. in Economics from Harvard University and would later serve as the first Secretary of Housing and Urban Development under President Lyndon B. Johnson. Indeed, with black officials on the rise, they could form a "kitchen cabinet," which met informally to discuss matters of common concern to African Americans. Perhaps their greatest access to the White House came through the president's wife, Eleanor, who, more than her husband, had a close connection to the NAACP and to black and white southerners who believed in interracial cooperation and reform of the South.

The recognition that President Roosevelt extended to African Americans and the partial relief furnished by the New Deal initiated a key partisan realignment of the black electorate. In the 1936 presidential election, the majority of black voters in the North abandoned the Republican Party of Abraham Lincoln and supported the Democratic Party of Franklin Roosevelt.[56] Over the next several decades, this shift would help reshape the political landscape of the nation and lead to the enfranchisement of African Americans.

[56] Harvard Sitkoff, *A New Deal for Blacks: The Emergence of Civil Rights as a National Issue* (New York: Oxford University Press, 1978), passim; Nancy J. Weiss, *Farewell to the Party of Lincoln: Black Politics in the Age of FDR* (Princeton: Princeton University Press, 1983), passim.

PART THREE: 1941-1954

World War II

As it did for so many aspects of civil rights, World War II boosted opportunities for expanding black suffrage. The democratic, anti-racist ideology of the war against Fascism abroad prompted blacks to pursue a "Double V" campaign for victory both abroad and over white supremacy at home. The participation of black troops on the ground, albeit in segregated units, as well as the heroic combat record of the Tuskegee Airmen, the specially trained unit of black pilots, provided palpable arguments for extending full citizenship rights to African Americans. Although the war heightened black expectations of securing the right to vote, it did not guarantee that a half-century of disenfranchisement would end. Fulfilling the promises of the Fifteenth Amendment would take more than wartime rhetoric to achieve; it would require litigation, lobbying, and direct action. Even then, it would take another twenty years after the end of World War II before the majority of black southerners obtained the right to vote.

The Final Victory Against the White Primary

The white primary, which had been under legal assault since the mid-1920s, sparked a renewed challenge during the war. With its victories in *Nixon v. Herndon* and *Nixon v. Condon* cancelled by the Supreme Court's decision in *Grovey v. Townsend*, the NAACP took advantage of a new opening to oppose the restrictive Texas Democratic primary. In 1941, in an unrelated voting-fraud case from Louisiana, *United States v. Classic,* the Supreme Court ruled that a primary was not a private affair where state law made it part of the electoral process or the primary in effect determined the outcome of the general election. This case established "federal authority to redress discrimination in the state electoral process" and supplied the precedent NAACP attorneys needed to overturn *Grovey* and attack the Texas white primary as a direct violation of the Fifteenth Amendment.[57]

Led by Thurgood Marshall, a Howard Law School student of Charles H. Houston and his successor as the NAACP's legal director, the national association worked closely with its State Conference of Branches in Texas and filed suit against the all-white primary. Lonnie E. Smith, a dentist from Houston and an NAACP member, sued S. E. Allwright, a local election official, for $5,000 for refusing to give him a ballot in the 1940 Democratic congressional primary. Along with William Hastie, Houston's successor as dean of Howard Law School, Marshall argued before the Supreme Court that the Texas Democratic Party derived its power to conduct primaries from state statutes and the results of the primaries determined the selection of candidates for governmental office. Thus, the NAACP lawyers contended that by excluding black Texans from the only election that counted, the state deprived Lonnie Smith and his fellow black registrants of their right to vote.[58]

The high tribunal agreed. On April 3, 1944, Justice Stanley F. Reed, who had served as Franklin D. Roosevelt's Solicitor General, in an 8-1 decision, ruled in favor of Smith and the NAACP. Reed and his brethren based their reasoning on the decision in *United States v. Classic* and concluded that because Texas had delegated to the Democratic Party the power to exclude blacks

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[57] *United States v. Classic,* 313 U.S. 299 (1941); Hall, *Oxford Companion*, 157 for quote.

[58] Lawson, *Black Ballots*, 41-43; Darlene Clark Hine, *Black Victory: The Rise and Fall of the White Primary in Texas* (Millwood, NY: KTO Press, 1979), passim.

from the primaries, the party did not function as a private organization but as an extension of the state, thereby subject to the Fifteenth Amendment's prohibition against racial discrimination. Hastie guessed that historians would write one day that the Court's decision in *Smith v. Allwright* "released and galvanized democratic forces which in turn gave the South the momentum it needed toward ultimate leadership in American liberalism."[59] Lulu White, the executive secretary of the Houston branch of the NAACP, hailed the decision as a "Second Emancipation."[60]

The white primary ruling expanded the right to vote in the South and sparked further efforts to challenge other barriers to enfranchisement, but the path to success would be littered with piecemeal victories and obstructions. Although the Court had spoken clearly in *Smith v. Allwright,* a number of southern states attempted to evade the ruling. In July 1944, the Georgia Democratic Party declared that the Texas decision did not apply to its state because state law did not mandate the primary. A group of blacks from Columbus, Georgia, along with the local chapter of the Atlanta NAACP and C. A. Scott, the publisher of the *Atlanta Daily World*, contested the decision of the state Democratic Party to continue to exclude blacks from its primaries. Over the next two years, federal courts sided with the black plaintiffs, ruling that state law regulated the conduct of primaries once the Democratic Party decided to hold them. However, in February 1947, the legislature tried to outmaneuver the NAACP by repealing all of its primaries laws, presumably leaving the Democratic Party free of state supervision.[61]

A case from South Carolina finally put a stop to these subterfuges. On April 20, 1944, the Palmetto State General Assembly repealed all of its laws pertaining to primary elections. The NAACP brought suit in *Elmore v. Rice* against the official who refused to allow George Elmore, one of its members, to vote in the Democratic primary. On July 12, 1947, federal judge Julius Waties Waring, a prominent Charlestonian, ruled in favor of Elmore. Waring braved personal threats against himself and his family and warned fellow South Carolinians: "[R]ejoin the Union. It is time to fall in step with the other states and to adopt the American way of conducting elections."[62] Although Judge Waring simply carried the landmark *Smith v. Allwright* reasoning to its logical conclusion, this native southerner showed uncommon courage. The Fourth Circuit Court of Appeals upheld his decision, effectively bringing an end to the white primary in South Carolina and throughout the South. In 1940, approximately 250,000 black southerners were registered to vote in the South; by 1948 the number had risen to over 775,000. The figure had jumped from 3 percent to 12 percent of blacks eligible to vote.[63]

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[59] Lawson, *Black Ballots*, 46; *Smith v. Allwright*, 321 U.S. 649 (1944). The lone dissenter in the case was Justice Owen Roberts who had authored the opinion in *Grovey*.

[60] Pitre, *Lulu B. White*, 43. This case had a wider constitutional impact than on racial matters. It helped establish the concept of "public function," in which traditional government functions performed by private entities are considered state action. Hall, *Oxford Companion*, 800.

[61] Lawson, *Black Ballots*, 48.

[62] *Elmore v. Rice*, 72 F. Supp. 516 (1947); Lawson, *Black Ballots*, 51.

[63] Steven F. Lawson, *Running for Freedom: Civil Rights and Black Politics in America Since 1941,* 2nd ed. (New York: McGraw-Hill, 1997), 81. The courts had some mopping up to do of remaining attempts to avoid the white primary decisions. In 1948, Judge Waring struck down another attempt to discourage black voting. The South Carolina Democratic Party allowed whites to automatically vote in its primaries, but required blacks to take an oath to support racial segregation before they could vote. *Brown v. Baskin*, 78 F. Supp. 933 (1948). As late as 1953, Fort Bend County in Texas permitted the Jaybird Democratic Party, an all-white group, to hold primaries closed to

Even before the final outcome of the white primary rulings in South Carolina, local black activists organized to expand the right to vote and to challenge the legitimacy of the state Democratic Party, which discriminated against them. In cooperation with the NAACP, the Reverend James Hinton, Osceola McKaine, and John McCrary formed the Progressive Democratic Party (PDP). Members of the black middle class, Hinton headed the state's NAACP Conference of Branches and McKaine and McCray edited the black newspaper, *Lighthouse and Informer*. McKaine, who had fought in World War I, explained that the right to vote for blacks was critical not in and of itself but because "[t]he use and nonuse of the ballot can determine whether . . . [people] shall have adequate schools and school bus transportation for their children or whether the present handicaps to their educational and personality development shall continue or become intensified." For these reasons, McKaine asserted, the acquisition and strategic deployment of the vote interested the black masses most of all. In a bold and imaginative move, the PDP selected a group to challenge the seating of the regular South Carolina delegation at the Democratic National Convention in 1944. The Progressive Democrats failed largely because President Roosevelt and the national Democrats did not want to cause any white defections from the powerful wing of their party in the South. Nevertheless, leaders of the PDP continued their efforts to organize black voters. They met some success as a record number of blacks, 35 thousand, turned out to vote in the 1948 regular Democratic primary.[64]

Poll Tax

The white primary was only one major hurdle for blacks to overcome. They still had to deal with the discriminatory impact of poll taxes. World War II also helped spur challenges to this requirement, although the outcome was less successful. Whereas the effort to remove the white primary was largely directed by the NAACP and its branches, progressive white southerners and their black allies led the challenge to the poll tax. Indeed, the poll tax proved as difficult a barrier for poor white southerners to overcome as it did for blacks. Moreover, some states such as Alabama required the payment of back poll taxes if an individual had not voted in several previous elections. States also required voters to pay the tax well in advance of the election, before candidates and issues were determined, and required voters to keep their receipts and present them at the ballot box. With these handicaps placed upon them, white and black southerners had the lowest rate of voter participation in the nation.[65]

Southern progressives took aim at the poll tax, especially after the Great Depression had made the payment even more difficult to satisfy for the majority of potential voters. Encouraged by Franklin D. Roosevelt's New Deal reforms, in 1938 southern liberals formed the Southern Conference for Human Welfare (SCHW) to seek ways to extend economic and political democracy to the region. The group's headquarters rotated with the city in which it held its biennial conventions—Birmingham (1938), Chattanooga (1940), Nashville (1942), and New

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blacks. The victors in these contests went on to run as the official candidates of the Democratic Party. The Supreme Court declared that the Jaybird primaries, though held under private auspices, effectively controlled the outcome of the general elections and overthrew it. *Terry v. Adams*, 345 U.S. 461 (1953).

[64] The quote comes from Patricia Sullivan, *Days of Hope: Race and Democracy in the New Deal Era* (Chapel Hill: University of North Carolina Press, 1996), 202. See also Lawson, *Running for Freedom*, 16-17, 26.

[65] Lawson, *Black Ballots*, 55-56.

Orleans (1946).[66] As an outgrowth of this organization, Joseph Gelders and Virginia Foster Durr spearheaded the formation of the National Committee to Abolish the Poll Tax (NCAPT) in 1941. Gelders had been a physics professor at the University of Alabama and a fearless supporter of union organizing in the steel industry in Birmingham. In contrast, Durr represented the model of southern femininity. Born in Montgomery, Alabama, she came from a respected family, the daughter of a minister. Her husband, Clifford Durr, was one of many bright southerners that the Roosevelt Administration had attracted to Washington, D.C. Virginia Durr counted among her close friends Eleanor Roosevelt and Lady Bird Johnson, the wife of the rising star from Texas, Representative Lyndon Baines Johnson. Virginia's older sister was married to Supreme Court Justice Hugo Black of Alabama. Durr, Gelders, and their circle of southerners who supported New Deal liberalism believed that abolition of the poll tax was a necessary step in reshaping the Democratic Party in the South and defeating the conservative oligarchy of large planters and industrialists that kept most of the people disenfranchised and impoverished.[67] With her connections to powerful movers and shakers in the nation's capital and their courageous support for biracial progressive activism in the South, Virginia Durr was instrumental in helping shape and carry forth the suffrage agenda throughout the South and the country during the early years of the civil rights movement.

The NCAPT welcomed support from the NAACP, but it played down the race issue in order to avoid charges that eliminating the poll tax would threaten white supremacy. Thus, the NCAPT targeted its newsletter and educational materials to reach a largely white audience. It worked closely with the Congress of Industrial Organizations (CIO), a union that sought to recruit workers in the South to its ranks. Moreover, the committee focused on the single issue of the poll tax and political democracy and avoided positions on racial integration and equality. The titular head of the organization was Jennings Perry, the editor of the *Nashville Tennessean* and outspoken advocate of poll tax repeal in his state. As vice-chair, Durr coordinated much of the group's activities. As a result of her tireless efforts and important political contacts, the NCAPT persuaded Democratic Congressman Lee Geyer of California and Democratic Senator Claude Pepper of Florida to introduce anti-poll tax measures in the early 1940s. The Sunshine State had eliminated the poll tax in 1937, a move that Pepper attributed to his Senate victory in 1938.

For constitutional reasons, the repeal bills covered national elections but not state contests, especially after the Supreme Court had ruled in *Breedlove v. Suttles* (1937) that the Constitution did not prevent a state from adopting a poll tax on voting.[68] Article One, Section One of the Constitution stipulated that qualifications for national elections must be the same as those established by the states in voting for representatives to state legislatures. Reformers argued that the imposition of the poll tax was not a reasonable qualification and the national government did not have to accept it for federal elections. Opponents just as vigorously countered that the Constitution clearly left the matter to the states to determine the exact standards for voting.

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[66] Linda Reed, *Simple Decency & Common Sense: The Southern Conference Movement, 1938-1963* (Bloomington: Indiana University Press, 1991), 29.

[67] Lawson, *Black Ballots,* 61; Virginia Foster Durr, *Outside the Magic Circle: The Autobiography of Virginia Foster Durr*, ed. Hollinger F. Barnard (Tuscaloosa: University of Alabama Press, 1985), 152-58.

[68] *Breedlove v. Suttles*, 302 U.S. 277 (1937). A white male, Breedlove challenged the Georgia poll tax under the Equal Protection Clause of the Fourteenth Amendment. The plaintiff's race underscores how the poll tax impacted working-class and progressive whites, as well as blacks.

As with the white primary, World War II enhanced the arguments for abolishing the poll tax while the nation was fighting overseas to halt antidemocratic fascists. The NCAPT declared that "our country today is engaged in a war between a free and a slave world. A world in which the prerequisite for a victory is that we move forward now to full freedom for the common man."[69] In 1942, the door to repeal opened slightly when Congress approved a proposal offered by Senator Pepper that waived the poll tax payment for soldiers attempting to cast absentee ballots. In practice, the Soldier Vote Act still left the majority of southerners subject to the poll tax, but it did provide both encouragement and a precedent for further action. In October 1942, the House of Representatives passed the Geyer bill over the stiff opposition of southern Democrats. Although the bill affected whites more than blacks, representatives from the South believed that repeal would provide the momentum to remove other barriers to black voting and racial equality in the South.

Southern senators, with the exception of Pepper, agreed. The rules of the Senate provided them with the means to block further consideration of the repeal bill. Unlike the House, the Senate permitted unlimited debate unless two-thirds of the body agreed to impose cloture and shut off the filibuster. A month after passage of the Geyer bill in the House, the Senate refused to approve cloture against the filibuster its southern members had waged. The repeal forces received no help from President Roosevelt, who during wartime did not want to jeopardize the support he needed from powerful southern senators for his military objectives.

The losing legislative struggle in 1942 set the pattern that would be repeated throughout the decade. In 1943, the House once again passed a repeal measure, only to see the Senate fail to defeat the southern filibuster in May 1944. Whatever chance the bill had for passage in the Senate evaporated as southerner lawmakers dug in more deeply to retain the poll tax and defeat cloture one month after the Supreme Court outlawed the white primary in Texas. Two years later the outcome was the same. This time Harry S Truman had replaced the deceased President Roosevelt, and like Roosevelt he both supported the elimination of the poll tax but refused to fight for it in Congress. As a new president facing serious problems of economic reconversion from wartime and the onset of the Cold War with the Soviet Union, Truman did not desire to confront southern senators whose support he needed for domestic and foreign policy issues he accorded much higher priority than the poll tax. For the fourth time since 1942, the House overwhelmingly approved poll tax repeal in 1947, and for the fourth time the Senate discarded the repeal measure in 1948. In the latter instance, the Republicans controlled a majority of both houses of Congress, but it mattered little. The Republican leaders of the Eightieth Congress were no more willing than their Democratic counterparts to mount the necessary battle to impose cloture. In the past, Republican conservatives had worked closely with southern Democrats to oppose Roosevelt's and Truman's social and economic programs; they too had no incentive to upset that coalition over the poll tax.[70]

Despite these legislative defeats, some progress was made in the 1940s in challenging the poll tax. After World War II, Georgia, South Carolina, and Tennessee discarded their poll tax requirements. States like Mississippi in 1946 exempted homeward bound soldiers from having to pay their poll tax for the previous two years. A one-shot deal, this action temporarily pried open ballot boxes for those who previously had been unable to pay the tax. Furthermore, poll tax

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[69] Lawson, *Black Ballots*, 72.

[70] The above paragraphs are based on Lawson, *Black Ballots*, 66-85.

repealers won the endorsement of a blue-ribbon panel established by President Truman in 1946 to study racial bigotry in the United States. In 1947, the President's Committee on Civil Rights issued its report, *To Secure These Rights*, that included among its recommendations congressional action to outlaw payment of the poll tax as a voting qualification. Although Congress failed to do so, voting rights advocates succeeded in gaining moral support from the Federal government.[71]

Grassroots Voting Drives

Black soldiers returning home following World War II helped spearhead efforts to vote following both the demise of the white primary and the relaxation of poll tax requirements for military veterans. Roy Wilkins, assistant secretary of the NAACP, pointed out that for black soldiers who had dodged enemy fire in Europe and Asia, "bullets or threats of bullets are not likely to cause them to bow and scrape once they are home."[72]

One of those soldiers expecting to cast his ballot was Medgar Evers, a veteran from Decatur in eastern Mississippi. In the Mississippi to which Evers returned, less than 1 percent of adult blacks—about 5,000 of almost 350,000—had registered to vote. Evers looked forward to voting against Senator Theodore Bilbo, the rabid segregationist running for reelection in 1946. Despite the ruling in *Smith v. Allwright*, Bilbo publicly informed campaign audiences that blacks should stay away from the polls in the Democratic primary, and "red blooded" white men would make sure that they did. In fact, a delegation of whites showed up at Evers's house the night before the election to warn his father to keep Medgar from voting. Unafraid, Evers and four other veterans showed up the next day to vote; however, a group of whites waving pistols turned them away.

Although perhaps 2,500 blacks managed to vote in Mississippi's Democratic primary in 1946, the determination of World War II veterans would not let the matter rest. Organized by the Mississippi Progressive Voters League (a middle-class black civic association), local branches of the NAACP, and the Regional Council of Negro Leadership, 50 people complained to the U.S. Senate Committee to Investigate Campaign Expenditures. They stated that Bilbo, who easily won the election, had intimidated black voters and should be barred from taking his seat in the Senate. The committee agreed to hold hearings in Jackson, Mississippi in December 1946, but the prospects for ousting Bilbo did not appear bright. Three of the five senate investigators came from the South and the other two were conservative northern Republicans who had not championed civil rights.

Nevertheless, the four-day inquiry that began on December 2 received widespread media coverage and the rest of the country learned just how difficult, if not impossible, it was for most blacks to register and vote in the Magnolia State. Two hundred blacks, a majority of them veterans, packed the Federal Building courtroom in Jackson to testify against Bilbo. Wearing his army Good Conduct Medal, Etoy Fletcher charged that a group of white men assaulted him in the town of Brandon after the local registrar told him that "Negroes are not allowed to vote in Rankin County."[73] Another veteran, Vernando R. Collier, president of the NAACP chapter in

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[71] Steven F. Lawson, ed., *To Secure These Rights: The Report of Harry S. Truman's Committee on Civil Rights* (New York: Bedford/St. Martin's, 2003), passim; Lawson, *Black Ballots*, 84, 103.

[72] Lawson, *Black Ballots*, 102.

[73] Ibid., 108.

Gulfport, described how he and his wife were assaulted by a pack of white men as they tried to enter the polling place.

The committee also heard the testimony of white registrars who, although they did not condone violence, deployed so-called legal methods to keep blacks disenfranchised. Mississippi's "understanding clause" went beyond mere literacy and allowed registrars to devise esoteric questions based on the state constitution, which were designed to keep blacks from enrolling. White applicants did not have to display the same feats of understanding. Many of these witnesses acknowledged the double standard they employed, leading Charles Houston, who observed the proceedings for the NAACP, state that these officials were "so dumb and vicious they proved the charges rather than refuted them. Sometimes I think Jesus Christ must be ill at ease in Mississippi."[74]

The outcome of the probe proved inconclusive. On the final day of the hearings, Bilbo took the stand. While admitting that he made inflammatory statements against black voting during his campaign, he denied that he had anything else in mind other than advocating lawful and peaceful means to dissuade blacks from participating in the white man's election. Even if the majority of the committee had been more sympathetic to the black position, its members would have had a difficult task proving that Bilbo, the man, rather than Bilboism, the system, illegally deterred black suffrage. The investigating committee absolved Bilbo and agreed with him that he had only dispensed "friendly advice." However, Republicans held a majority in the Senate and were not averse to embarrassing the Democrats for Bilbo's indiscretions. They decided to delay Bilbo's swearing in on January 3, 1947, and postponed action on whether to accept the Mississippian's credentials. What all concerned knew was that Bilbo was suffering from cancer of the jaw, and he needed surgery. Six months later the issue was settled permanently when Bilbo died. His replacement, John Stennis, continued to support white supremacy, although in a more gentlemanly fashion than had Bilbo.[75]

What should not be forgotten about this affair is the determination of black Mississippians to peacefully overthrow the oppressive racist system. The veterans and their allies did not achieve immediate success but over the next two decades, they kept chipping away at disenfranchisement until they pressured the Federal government to use its power to help overcome it.

Throughout the South, the end of World War II stimulated other voting campaigns. Blacks formed voter leagues that together with NAACP branches, civic, fraternal, and religious associations, and selected CIO locals conducted suffrage drives. The *Atlanta Daily World*, which had editorialized against the white primary, provided crucial coverage of registration campaigns. In 1946, the Atlanta All Citizens Registration Committee succeeded in persuading some 17,000 African Americans to sign up to vote. Clarence (C. A.) Bacote, a historian at Atlanta University, chaired the committee, and Grace Towns Hamilton, the Executive Director of the Urban League, coordinated the day-to-day activities, which included mass distribution of flyers and door-to-door canvassing. Hamilton came from a civic-minded family and she had attended Atlanta University. She worked for the YWCA for several years before taking over

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[74] Ibid., 110; John Dittmer, *Local People: The Struggle for Civil Rights in Mississippi* (Urbana: University of Illinois Press, 1994), 3-9.

[75] Lawson, *Black Ballots*, 113-14; Dittmer, *Local People*, 9.

leadership of the Urban League in 1943. The league stressed community self-development and worked on improving housing and employment conditions for Atlanta blacks.

While male faculty members from Atlanta University and ministers such as the Reverend Martin Luther King, Sr. played an important role, the presence of Hamilton shows that women were as critical to the success of the drive as were men. Women's groups lent their expertise and personnel to the effort. For example, a group called the MRS Club, comprised mainly of young teachers, succeeded in registering all of its members. One of them, Narvie J. Harris, believed that citizenship education had to extend beyond the classroom to the larger community, and she established a PTA Council to promote adult education. Her extensive involvement in the social networks of her community proved invaluable in reaching potential voters throughout Atlanta's black neighborhoods. The drive also benefited from the participation of Ruby Blackburn. From a more humble background than Hamilton and Harris, Blackburn had worked as a maid at a black school and later became the owner of Ruby's Beauty Shoppe. Beauty parlors were an important meeting place for black women during the era of segregation and provided an independent space for discussion and dissemination of information. When the operators were as political as Blackburn, who also was active in the NAACP, the shops furnished a way to reach many women outside the middle class, social orbit of professionals like Hamilton and Harris.[76]

After *Smith v. Allwright*, Lulu White concentrated her energies in mobilizing black voters. She argued "that a strong black vote was needed to shape governmental policies at local and state levels in the 1940s and 1950s." Under her direction, the NAACP conducted citizenship classes to instruct people about voting procedures, economic rights, and African American history to provide the incentive of blacks to acquire the ballot. An indefatigable speaker, she appeared before civic organizations, church groups, and graduation ceremonies and invoked audiences to "[p]ay your poll tax and go out to vote." Her initial efforts to stimulate black voter registration did not succeed in affecting the outcome of local elections in Houston. However, in collaboration with ministers and members of the black press, she helped increase the size of the black electorate by 1948. In that year, black voters went to the polls and overwhelmingly cast their ballots for Lyndon Johnson in his campaign to defeat Governor Coke Stevenson for the Senate. With a victory of only 89 votes, Johnson benefited from the solid black vote.[77]

Although women played essential roles in sustaining voter registration, men stood in the limelight. As ministers, businessmen, and academics they mainly held the leadership positions in the most powerful institutions within black communities: churches, businesses, and colleges. They also tended to run state and local chapters of the NAACP. This proved the case with voting rights leaders J. M. Tinsley of Richmond, Virginia; Arthur Shores in Birmingham, Alabama; Charles Gomillion and William P. Mitchell of Tuskegee, Alabama; and Harry T. Moore of Brevard County, Florida. Because the NAACP avoided partisanship, these leaders either established or worked closely with voter leagues that campaigned for candidates sympathetic to black interests. In Atlanta, NAACP lawyer Austin Thomas (A. T.) Walden headed the Georgia Association of Citizens Democratic Clubs. As a result of the 1946

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[76] Kathryn L. Nasstrom, "Down to Now: Memory, Narrative, and Women's Leadership in the Civil Rights Movement in Atlanta, Georgia," *Gender & History* 11 (April 1999): 117-24, 132. In 1965, Grace Hamilton was elected to the Georgia Legislature, the first black woman to do so. Lorraine Nelson Spritzer and Jean B. Bergmark, *Grace Towns Hamilton and the Politics of Southern Change* (Athens: University of Georgia Press, 1997), passim.

[77] Pitre, *Lulu B. White*, 43-55, the first quote is on 44, the second on 45.

registration drive, he swung the African American vote behind the candidacy of Helen Douglas Mankin, a while liberal who defeated her racist opponent for Congress.[78]

Interracial union locals, such as those that the CIO tried to create in the South, spurred black political participation. Following World War II, Local 22 of the Food and Tobacco Workers succeeded in organizing black and white workers at the R. J. Reynolds Company in Winston-Salem, North Carolina. As part of its activities, the union helped register some 3,000 blacks in the city, which in 1947 resulted in the election of Kenneth Williams to Winston-Salem's Board of Aldermen, the first black to hold this position since Reconstruction. However, R. J. Reynolds struck back against the union. Communists had helped organize Local 22, and during this Cold War period of anti-communism, the tobacco company and its allies in the chamber of commerce and the press attacked the union as un-American. Red-baiting succeeded, as it would increasingly over the next decade throughout the United States, and Local 22 collapsed. Even without charges of communist infiltration, it is unlikely that unions in the South would have succeeded in joining black and white workers together for racial equality. Many of the white workers that unions sought to organize could not overcome their own racist beliefs. Indeed, many of the same workers targeted by unions also were recruited by the Ku Klux Klan.[79]

Extra-legal Means of Disenfranchisement

The situation in Winston-Salem indicated that despite legal victories, black citizens remained vulnerable to pressure and intimidation if they tried to vote. Some of it was the kind of coercion that Bilbo applied in Mississippi; some was the type that businessmen used in warning black workers that they would lose their jobs or be denied financial credit; and some was the brand the white press employed to warn readers against the dangers of radicalism and black independence. Above all of these, violence loomed as the main threat. In March 1948, the Ku Klux Klan paraded around Wrightsville, Georgia and warned that "blood would flow" if blacks tried to vote in the forthcoming election. Seven months later on September 8, two whites threatened Isaac Nixon, a black veteran, not to vote. He refused to heed their warning, cast his ballot shortly after sunrise, and by nightfall he had been murdered. Before he died, he revealed the names of the killers to the president of the local NAACP branch, D. V. Carter. A few days later, some whites assaulted Carter in his home and forced him to flee town. Although Nixon's assailants later stood trial, an all-white jury acquitted them. Three years later on Christmas Eve, 1951, Florida's NAACP director and voting rights champion, Harry T. Moore, along with his wife, were murdered when the Klan dynamited their home. Moore's attackers killed him for a variety of liberationist activities besides voting, but the message was clear. Blacks who organized for social change, for whatever reason, were vulnerable to violent white retaliation. [80]

Violence or its threat had an insidious multiplier effect. Blacks in counties with a history of lynching and terror, even if in the distant past, inherited a legacy of fear. African Americans did not have to experience violence directly. Within the solid South, intimidation anywhere, to paraphrase Reverend Martin Luther King, Jr., was interpreted as intimidation everywhere. A

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[78] Lawson, *Black Ballots*, 127.

[79] Lawson, *Running for Freedom*, 41; Robert Rodgers Korstad, *Civil Rights Unionism: Tobacco Workers and the Struggle for Democracy in the Mid-Twentieth-Century South* (Chapel Hill: University of North Carolina Press, 2003), 306-10.

[80] Lawson, *Black Ballots*, 131-32.

resident of Walton County, Georgia remarked in the late 1940s: "There is no need to vote, it won't amount to anything anyway. White folks are running things and they will continue to do so."[81] This statement reflected a pervasive belief among many African Americans in the South that was usually perceived as apathy, although this was not necessarily the case. Rather, violence and intimidation both occasioned and reinforced this feeling of powerlessness and had to be checked before the majority of blacks became enfranchised.

Literacy and Understanding Tests

Perhaps the most effective form of coercion was not lethal. Even without the white primary and poll taxes, the greatest barriers to black suffrage remained the manipulation of literacy tests and the registration system itself. Literacy tests for voting abounded everywhere in the South except Arkansas and Texas. Even if the tests had been administered impartially, a sizable number of blacks would not have passed. In 1950, nearly 45 percent of southern blacks over the age of 25 had received less than four years of formal schooling. (The comparable figure for whites was slightly more than 13 percent.) However, state officials did function impartially. Myrdal's *An American Dilemma*, quoted one boastful southern official on his approach to administering literacy tests: "I can keep the President of the United States from registering, if I want to. God, Himself, couldn't understand that sentence. I, myself, am the judge."[82]

Alabama provides a prime example of how the system worked. The state did not challenge the end of the white primary as did Georgia and South Carolina, but it devised a plan to limit the number of blacks who could take advantage of its demise. In 1945, the legislature proposed an amendment to the state constitution that required prospective voter registrants to demonstrate literacy by reading and writing any portion of the state constitution as well as an understanding of the selected portion. Named after its sponsor, E. C. Boswell from Geneva County, the amendment was submitted for ratification by voters in November 1946. The Boswell amendment passed with 54 percent of the vote over the opposition of blacks and white reformers, who feared that wealthy business and agricultural interests in control of state politics would use the measure to disenfranchise poor whites from challenging their rule. Following the adoption of the amendment, the Board of Registrars in Jefferson County (Birmingham) devised such questions as "What is meant by the veto power of the United Nations?" and "What is meant by the pocket veto?"

The amendment's constitutionality did not go unchallenged. The NAACP initiated "Operation Suffrage" to bring suit against the Boswell Amendment for violating the Fifteenth Amendment. Working with Arthur Shores, a lawyer for its Birmingham branch, Thurgood Marshall prepared to challenge the Boswell Amendment's lack of definite criteria for determining eligibility and the arbitrary discretion given to registrars to apply the standards. At the same time, another black group, the Voters and Veterans Association of Mobile, which included individual members of the NAACP, sought to file its own litigation. The two groups sued Milton Schnell, the chairman

[81] Ibid., 124.

[82] Quoted in Hall, *Oxford Companion*, 886. For the original citation, Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Harper, 1944), 1325, n. 34. My thanks to Susan Salvatore for pointing this out.

of the Mobile County Board of Registrars for disqualifying qualified black applicants from registering to vote under the Boswell Amendment.[83]

In 1949, a three-judge federal panel struck down the constitutionality of the Boswell Amendment. Its members agreed that the standard of "understand and explain" contained in the clause was too vague and resulted in the violation of black voting rights under the Fifteenth Amendment. Nevertheless, the judges suggested that a "uniform, objective, standardized test with proper questions or guides" would pass constitutional muster. Subsequently, the state adopted a Voter Qualification Amendment designed by state representative J. Miller Bonner from Wilcox County, which provided a written, standardized test. Despite the creation of this supposedly impartial literacy standard, racial discrimination in its application persisted and even where registrars were fair, the test had a disproportionate impact on black applicants because of their lower level of education. In effect, while "racially neutral" on its face, the literacy test reflected and sustained the discrimination practiced by the state through its separate and unequal school systems. Hence from 1947 through 1952, voter registration among blacks in the state barely increased from 1.5 to 5 percent. Over the decade, with the judicially sanctioned literacy test intact, it crept up only slightly further to 13 percent.[84]

[83] The CIO declined to participate in the suit, perhaps because it feared the divisions the race issue would generate among its predominantly white membership in Alabama.

[84] *Davis v. Schnell*, 81 F. Supp. 872 (1949). The U.S. Supreme Court affirmed the lower court ruling in *Davis v. Schnell*, 336 U.S. 933 (1949). The passages in the text are based on Lawson, *Black Ballots,* 87-97. Lawson, *Running for Freedom*, 81.

PART FOUR: 1954-1965

The Impact of the *Brown* Decision

It might be expected that the decision in *Brown v. Board of Education* in 1954, which outlawed public school segregation and prompted a tidal wave of massive resistance to its enforcement, would hamper black voter registration. However, its impact was mixed. Available statistics are fragmentary, but they show that in five of ten southern states the greatest percentage increase in registration occurred from 1940 to 1947, mainly following *Smith v. Allwright*. In five others, Alabama, Florida, Louisiana, Mississippi, and Arkansas, the proportion of enrolled blacks indicated a greater increase from 1947 to 1954 than in the immediately preceding period. Yet in the two years before *Brown*, the pace of black registration remained steady and did not decline in the two years following the decision. In fact, in Arkansas, Louisiana, and Virginia, black registration climbed more sharply in the two years after 1954 than it had in the previous two years.

For the most part, the rate of black enfranchisement had been declining before the *Brown* opinion. The historic decision produced a "backlash effect" in generating massive opposition to school desegregation but also to other changes in southern race relations. Most immediately, it occasioned the rise of the Citizens' Council (popularly referred to as the White Citizens' Council), composed largely of middle and upper-class whites, which generally eschewed the Ku Klux Klan's violent forms of intimidation and replaced them with more subtle tactics. Council members held the purse strings in most southern communities and applied economic pressure against blacks who attempted to cross restricted racial boundaries of behavior. Yet sometimes it was difficult to distinguish the actions of the Klan from those of the Citizens' Council. In March 1955, a contingent from the Mississippi Citizens' Council, where the organization had originated in 1954, tried to persuade Gus Courts, a black shopkeeper and NAACP leader from Belzoni, to take his name off the voter registration list or relinquish the lease on his store. Courts refused and lost his business. The next month, one of his NAACP colleagues, George Lee, a Baptist minister active in promoting black voting, was shot to death. When Courts continued to encourage black voting, he too was shot, though not fatally. These bloody incidents notwithstanding, with respect to the suffrage, massive opposition came into play not so much immediately after *Brown*, but in response to the Federal government's move to extend protection of black voting rights in 1957.[85]

Civil Rights Act of 1957

It was one thing for the Supreme Court to rule against racial segregation, it was another to have Congress and the Executive Branch back it up. The Supreme Court cannot enforce decisions on its own, and by its very nature the judiciary moves slowly in a case-by-case fashion, permitting litigants to evade rulings by finding and exploiting loopholes in them. Such was the situation with *Brown*. In 1955, the Supreme Court refused to heed the NAACP's request to order school desegregation as quickly as possible and instead proclaimed that the South should desegregate its schools "with all deliberate speed." This pronouncement gave southerners great leeway in undertaking school desegregation, and in practice this translated into token integration. The Supreme Court also left it to federal district judges in the South to order suitable timetables for change. These judges who lived in the South and shared many of their white neighbors' racial

[85] Lawson, *Black Ballots*, 133-38; Michael J. Klarman, "How Brown Changed Race Relations: The Backlash Thesis," *Journal of American History* 81 (June 1994): 81-118; Dittmer, *Local People*, 33-34.

attitudes generally ruled in the narrowest manner possible to preserve segregation. Thus, in 1955 federal judge John J. Parker of the Fourth Circuit set the boundaries for enforcement very restrictively. In a case from South Carolina, *Briggs v. Elliott*, he ruled that *Brown* only required states to throw out laws that assigned pupils to schools based exclusively on race; it did not mandate that schools take affirmative steps to ensure that black students attend schools with whites.[86]

The prospects of Congress and the president taking action posed a more direct threat to white supremacy. Although black southerners had waged a courageous battle to reclaim their voting rights throughout the 20th century, there was a limit to what they could do by themselves. Given the commitment of white southerners to retain political power and minimize black enfranchisement through legal subterfuges and coercion, African Americans needed the national government to wield its extensive power and shatter southern obstructionism. They had a better chance with respect to the right to vote than with school desegregation.

President Dwight D. Eisenhower had been in office a year and a half when the Supreme Court ruled in *Brown*. Although Eisenhower had appointed Chief Justice Earl Warren to the high bench, the chief executive later admitted that it was the "biggest damn fool mistake" he had made.[87] Eisenhower's views on race were complex. The former five-star general had not originally supported integration of the armed forces and many of his closest military associates were white southerners who often influenced his racial views. He believed that school segregation had been the law of the land for nearly 60 years and that the South could not be expected to reverse itself overnight. Eisenhower never used his considerable popularity in the South to proclaim the region's moral as well as legal obligation to obey *Brown*. Instead, he advised that changes in the hearts and minds of white southerners had to come through religion and education, not through government coercion.

Yet Eisenhower believed in equality under the law, and he placed particular faith in the right to vote to remedy racial problems. Unlike education, the Constitution specifically protected the suffrage from racial discrimination and the Federal government had a clear responsibility in this area. In a similar vein, Eisenhower used his authority to promote racial equality in those venues specifically under national control. Thus, he ordered the desegregation of military base facilities in the South and worked behind-the-scenes to desegregate schools and public accommodations in Washington, D.C.[88]

By the mid-1950s, a number of considerations pushed the Eisenhower administration toward expanding the right to vote for black southerners. Following *Brown*, the pace of the civil rights movement quickened. The yearlong bus boycott in Montgomery, Alabama against segregated transportation resulted in a victory and vaulted into national prominence the Reverend Martin Luther King, Jr. Around the same time, in 1955, Emmett Till, a 14-year-old black youth from Chicago, who was visiting his great uncle in Mississippi, was brutally murdered for allegedly

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[86] Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Alfred A. Knopf, 1976), 751-52. *Brown v. Board of Education*, 347 U.S. 483 (1954); *Briggs v. Elliott*, 132 F. Supp. 776 (1955).

[87] James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy* (New York: Oxford University Press, 2001), 60.

[88] Robert Fredrick Burk, *The Eisenhower Administration and Black Civil Rights* (Knoxville: University of Tennessee Press, 1984), passim.

acting discourteously to a white woman at Bryant's Grocery and Meat Market in Money. Till's alleged violation of the South's racial and gender codes of behavior undoubtedly led to his homicide. Nevertheless, the killing occurred in a context of black challenges to white supremacy, including efforts to gain the right to vote. As one of Till's killers, John William (J. W.) Milam reflected later:

> I like niggers—in their place—I know how to work 'em. But I just decided it was time a few people got put on notice. As long as I live and can do anything about it, niggers are gonna stay in their place. Niggers ain't gonna vote where I live. If they did, they'd control the government.[89]

Till's death, and the subsequent acquittal of the two white men charged with his killing by an all-white jury, attracted widespread media attention and outrage in this country and throughout the world. The acquittal played into the hands of the Soviet Union in its propaganda battle with the United States during the Cold War. Along with the murder of George Lee and the shooting of Gus Courts for their voter registration activities in Mississippi, White House officials worried about a "dangerous racial conflagration" stirring in Dixie. Furthermore, in winning reelection in 1956, Eisenhower's portion of the black vote had risen by 5 percent, and northern Republicans hoped to improve their share of black ballots in tight Congressional districts. The *New York Times* commented: "The Republican high command was persuaded that the party needed an aggressive position on an issue popular in the country at large to defeat the Democrats in 1958 and 1960. The drive for civil rights was an obvious choice." Thus, the Eisenhower Administration had sound political, diplomatic, and ideological reasons to propose civil rights legislation.[90]

During the 1956 presidential campaign, Eisenhower endorsed a legislative plan that his attorney general, Herbert Brownell, had proposed to combat racial discrimination on several fronts. The measure created a national Commission on Civil Rights to investigate racial problems and offer recommendations, elevated the Justice Department's Civil Rights Section into a Division to give it increased resources to prosecute civil rights violations, and empowered the attorney general to initiate litigation to enforce school desegregation and voting rights cases. Eisenhower had not been enthusiastic about the school desegregation proposal, which generated the greatest opposition in the South and among southern congressmen. After the election, the president backed away from supporting this provision and focused instead on voting rights and two other sections.

Even after whittling the bill down basically to a suffrage measure, the administration and its supporters faced serious obstacles. The main problem lay in the Senate. Southern Democrats controlled important leadership posts, and James Eastland of Mississippi, who shared that state's Senator Theodore Bilbo's distaste for racial change, presided over the critical Judiciary Committee, which held hearings on the bill. Besides stalling the measure in committee, Eastland could join his southern colleagues in a filibuster should the bill reach the floor of the Senate.

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[89] William Bradford Huie, "The Shocking Story of Approved Killing in Mississippi," in *Racial Violence on Trial: A Handbook with Cases, Laws, and Documents*, ed. Christopher Waldrep (Santa Barbara: ABC-CLIO, 2001), 245. For a cultural history of the incident, see Stephen J. Whitfield, *A Death in the Delta: The Story of Emmett Till* (Baltimore: Johns Hopkins University Press, 1991).

[90] Lawson, *Black Ballots*, 163 has *New York Times* quote; Lawson, *Running for Freedom*, 52-53; Mary L. Dudziak, *Cold War Civil Rights* (Princeton: Princeton University Press, 2000), passim.

Unless the bill's legislative supporters could muster the two-thirds vote to shut off debate through cloture, the measure would fail as had previous legislation to eliminate the poll tax and prosecute lynching.

In fact, Eastland maneuvered to keep the bill in his clutches and prevent it from coming out of committee. However, he could not defeat the measure. While he was delaying, the House passed its own version of the bill. A bipartisan group of supporters in the Senate, aided by Republican Minority Leader William Knowland of California and Vice-President Richard Nixon sitting as presiding officer of the Upper Chamber, engaged in its own brand of parliamentary maneuvering. They used Senate rules to place the House version directly on the Senate floor, thereby bypassing Eastland's Judiciary Committee. On June 20, 1957, the Senate finally had a civil rights bill to consider.

Republican leaders cooperated with Democrats and tailored the measure to ensure that it could survive a filibuster. In response to sharp attacks from southern Democrats, most prominently Richard Russell of Georgia, Eisenhower signaled that he would not fight to retain the school desegregation provision in the bill, and the Senate eliminated it. However, the president reaffirmed his commitment to the ballot. "I think the voting right is something that should be emphasized," Eisenhower affirmed. "If in every locality every person . . . is permitted to vote . . . he has got a means of getting what he wants in democratic government and that is the one on which I place the greatest emphasis."[91]

With Democrats in command of the Senate, the Eisenhower administration relied heavily on Majority Leader Lyndon B. Johnson to navigate the bill to successful passage. The Texas senator had opposed all civil rights measures in the past, most recently, those that had been proposed by the Truman Administration in 1948 and 1949. However, Johnson had never been a race-baiter in the tradition of Bilbo; nor had he taken the leadership in defending segregation in the South as had his close friend and mentor, Senator Richard Russell of Georgia. In 1955, Johnson declined to sign his name to the "Southern Manifesto," a declaration by 101 southern congressmen, including most of his Senate colleagues, denouncing *Brown v. Board of Education* and pledging to find lawful ways of evading it. As democratic majority leader, Johnson wanted to find a way of preventing a rupture between northern liberal supporters and southern conservative opponents over Eisenhower's civil rights plan. At the same time, if Johnson could broker a compromise it would increase his political stock among northern Democrats, thereby improving his chances of gaining the party's presidential nomination, which he coveted.

As the consummate legislative tactician, Johnson realized that with Eisenhower supporting a civil rights measure, the prospects for its passage were much greater than in the past. Republicans had decided to go after the black vote and withdraw the cooperation they had previously given southerners in blocking the imposition of cloture and sustaining the filibuster. As Johnson's legislative assistant explained: "The South is now completely without allies." However, Democrats could avoid a major internal rift chiefly "by appealing to those men who wish to see a civil rights bill enacted but who are willing to listen to reason."[92] In effect, this meant fashioning a civil rights bill that avoided school desegregation and focused on protection of the right to vote through judicial means. This would disappoint many northern Democratic

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[91] Lawson, *Black Ballots*, 182-83.

[92] Ibid., 183; Lawson, *Running for Freedom*, 54; Robert A. Caro, *Master of the Senate* (New York: Alfred Knopf, 2002), 944-89.

liberals, but it would attract party moderates and keep southerners from waging a prolonged filibuster.

The final version of the bill accomplished Johnson's objectives and provided a legislative victory for the Eisenhower administration. After deleting reference to school desegregation, the Senate agreed to authorize the Justice Department to seek civil injunctions to block discriminatory practices by southern registrars. It also created a Civil Rights Commission to investigate civil rights infractions and elevated the Civil Rights Section into a division within the Justice Department to give it greater resources. The only obstacle to passage came when southerners objected that the bill did not provide a trial by jury for voting officials held in contempt for not obeying a court injunction to desist from denying blacks the right to vote. Southerners knew that granting a jury trial would almost certainly result in the acquittals by the customary all-white panels. Working with northern moderates, especially from the West, and the Justice Department, Johnson engineered a compromise that provided for a jury trial in cases where punishment was in excess of 90 days in jail and a $300 fine. Although the majority of southern Democrats refused to support the bill, they refrained from conducting a filibuster. When Strom Thurmond of South Carolina launched a record one-man talk fest of more than 24 hours, his colleagues from the region refused to assist him. Subsequently, on September 9, 1957, President Eisenhower put his signature on the first civil rights law passed in 80 years.[93]

During congressional deliberations, African Americans had campaigned loudly for passage of the Civil Rights Act. They preferred to keep the original measure with its school desegregation provision intact, but they considered the right to vote just as important. In February 1957, the Reverend Martin Luther King, Jr., president of the newly formed Southern Christian Leadership Conference (SCLC), called for a "Pilgrimage of Prayer" in Washington, D.C. to "give thanks for progress to-date, and pray for wiping out the evils that still beset us." In this effort, King attracted the support of Roy Wilkins of the NAACP and A. Philip Randolph, the father of the March on Washington Movement that persuaded President Roosevelt to establish the Fair Employment Practice Committee in June 1941. The NAACP preferred to operate in the courts and avoid direct action protests, but Wilkins supported the Prayer Pilgrimage as a celebration of the decision in *Brown v. Board of Education,* which the NAACP had won.[94]

On May 17, some 27,000 people heard the thrilling oratory of Reverend King. The highlight of his speech came when he chanted:

> Give us the ballot and we shall no longer have to worry the Federal government about our basic rights.
>
> Give us the ballot and we will by the power of our vote write the laws on . . . the statute books of the southern states and bring to an end the dastardly acts of the hooded perpetrators of violence.
>
> Give us the ballot and we will fill our legislative halls with men of goodwill.

[93] Lawson, *Black Ballots*, 184-99.

[94] Ibid., 174.

> Give us the ballot and we will place judges on the benches of the South who will do justly and have mercy.[95]

Two months later, King met with Vice President Richard Nixon and received his assurance that the administration would stand behind the civil rights bill. The final bill, which excluded school desegregation, disappointed most African Americans, but in general they were pleased to have the law as a foundation upon which to build for the future. Black supporters recognized that the bill amounted to "a half-loaf," but as the *Baltimore Afro-American* declared, it "is better than no bread at all." The *Pittsburgh Courier* and the *Atlanta Daily World* agreed that the law offered "a step in the right direction." A seasoned veteran of legislative lobbying, the NAACP's Wilkins defended the acceptance of compromise in practical terms: "If you are digging a ditch with a teaspoon, and a man comes along and offers you a spade, there is something wrong with your head if you don't take it because he didn't offer you a bulldozer." In contrast, the *Chicago Defender* branded this type of thinking as appeasement and a "hobo psychology."[96]

The aftermath of the 1957 law confirmed the reasoning of both defenders and critics of the act. Although it is difficult to pinpoint the exact figures for southern black voter registration in the years immediately following the law, overall black suffrage enrollment did increase from 20 percent in 1957 to slightly over 29 percent in 1960. Yet what appears to have occurred in some states is that the rate of black registration declined after 1957, largely in response to the backlash from the South in response to the law. For example, in South Carolina, the enrollment figure had jumped from 20 to 27 percent from 1952 to 1957, only to drop back to 16 percent in 1960.

Georgia

A good part of the national government's efforts went into defending the constitutionality of the 1957 law. The Civil Rights Division selected cases from among the counties with the worst records of discrimination against black voting. Terrell County, Georgia, where the black population outnumbered the white, 8,500 to 4,700, became the prime target. Less than 2 percent of adult blacks could vote compared to just over 64 percent for whites. One registrar, J. G. Raines, admitted that he kept blacks from voting by using his discretion in determining who passed the state's literacy test. Raines turned down otherwise qualified black applicants because they mispronounced certain words. A black school teacher with a graduate degree from New York University complained to the Justice Department about such problems, only to find that the local school board terminated her employment.[97]

Subsequently, the Civil Rights Division brought suit against Raines. In *United States v. Raines*, the Division charged that Raines filed voter registration applications according to race and discriminated against blacks by requiring them to answer more difficult questions to prove their literacy than he did whites. On April 16, 1959, federal district judge T. Hoyt Davis declared unconstitutional the 1957 statute upon which the litigation was based without even commenting upon the merit of the government's charges. Nearly a year later on January 12, 1960, the Supreme Court overturned the lower court opinion and validated the civil rights law. It ruled that Raines's conduct as voter registrar in discriminating against African Americans violated the

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[95] Ibid., 175-76.

[96] Ibid., 196.

[97] Ibid., 206-07.

Fifteenth Amendment, and that "legislation designed to deal with such discrimination is 'appropriate legislation' under it."[98]

In the meantime, Georgia found another way to stymie black voting by establishing the Election Law Study Committee (ELSC) in 1957. A major item on the agenda dealt with modification of the literacy test for voting, which showed racial motives. The ELSC sought to replace the state's current literacy exam with a new one that consisted of 30 standardized questions, 20 of which had to be answered correctly in order to pass. In supporting this proposal and speaking forcefully in favor of it, committee member Peter Zack Geer asserted that "the white voters of Georgia will be willing to put up with some inconveniences to see that illiterate black voters don't get on the registration lists."[99] One inconvenience he hoped to avoid concerned the possibility that prospective black voters who failed the new test "might then challange [sic] on masse the registered and qualified [white] voters on the list, and attempt to subject the old voters to the new examination."[100] Wishing to deter this "catastrophic" option, Geer recommended that the legislation not be applied retroactively. This would protect the approximately 3,500 whites registered to vote in Geer's home Miller County; in contrast, only six blacks were on the rolls.[101]

Newspaper coverage of Geer's frank statements placed the committee on the defensive. It received a letter from Wylie Clayton (W. C.) Henson, a Cartersville lawyer, who objected to the proposed voter law because it "will be construed everywhere as an effort to disqualify Negroes and prevent them from voting which it is likely meant to do."[102] Sensitive to charges that the proposal was aimed at keeping blacks disenfranchised and concerned about federal meddling into Georgia's electoral practices, Secretary of State Ben Fortson, who sat on this body, declared that the committee was not "attempting to create anything in the election laws that is directed against anybody." Seconding this claim of innocence, Vice Chairman Eugene Cook, the state attorney general, revealed indirectly but pointedly what was on many of his colleagues' minds. "There may be members of this Committee that would bar Negroes from voting," he declared,

> There may be members of this Committee in an individual capacity—who feel that since the NAACP has openly stated that their efforts to increase the vote power of the Negroes to bloc vote to the point that they will be able to control some elections—that these individual members as such feel that perhaps there should be a retaliatory position that could meet that unwholesome situation on the part of the NAACP.[103]

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[98] *United States v. Raines,* 362 U.S. 17, 21, 25, 26 (1960); *United States v. Raines*, 172 F. Supp. 552 (1959).

[99] *Atlanta Constitution*, November 22, 1957, clipping, Election Law Study Committee (ELSC) Papers, University of Georgia. See also, *Atlanta Journal and Constitution*, December 15, 1957, 2, clipping, ELSC Papers. The 1949 election statute established a passing grade of 10 correct answers out of 30. This examination was administered to those applicants who sought to qualify on the basis of "good character and understanding of the duties and obligations of citizenship." The other option for a prospective voter was to read and write a section of the Georgia Constitution.

[100] Peter Zack Geer to Frank Edwards, November 29, 1957, RG 37, SG 11, Series 17, ELSC Papers.

[101] *Atlanta Constitution*, December 22, 1957, 2, clipping, ELSC Papers. Geer was co-counsel for the state in *United States v. Raines*.

[102] Minutes, January 9, 1958, ELSC Papers.

[103] Minutes, December 12, 1957, ELSC Papers.

Cook himself was an outspoken opponent of the *Brown* opinion and the NAACP, which he branded "part and parcel of the Communist conspiracy to overthrow democratic government."[104]

After the ELSC completed its work in 1958, the legislature adopted the literacy test proposal and Governor Marvin Griffin, a staunch segregationist, signed it into law. Together with administrative changes in the revised election code, the stricter literacy test posed problems for potential voters. The *Atlanta Journal and Constitution* bemoaned the confusion caused by the new procedures and the fact "that a law touted as a means of keeping down the registration of new Negro voters is, in actual fact, keeping down the registration of a great many white voters too."[105] Nevertheless, as the *Raines* case showed, in counties where potential black voters outnumbered whites, the application of literacy tests fell hardest on African Americans.

Louisiana

Louisiana found still another way to disenfranchise blacks. Under state law, two qualified voters could challenge the qualifications of anyone on the rolls. The Citizens' Council advised its members to question the credentials of black registrants. They succeeded in purging thousands of blacks from the rolls by locating insignificant mistakes in black applications, while those same errors also appeared on white forms. In Ouachita Parish, some 3,000 black names, 75 percent of the total, disappeared following segregationist challenges. The state legislature aided and abetted the Citizens' Council. In late 1958, State Senator William Rainach convened his Joint Legislative Committee to devise plans to harass the NAACP and extend the persecution of black voters. Equating the NAACP with the Communist Party, he accused both of trying to stir up the "Negro bloc vote." Rainach instructed registrars to use Louisiana's literacy/understanding test together with the purges to further whittle down the black electorate. Employing these methods, for example, Citizens' Council members succeeded in removing 85 percent of Washington Parish's 1,377 registered blacks.[106]

To combat these practices, the Justice Department filed *United States v. Thomas* under the 1957 law, calling for an end to the purges that singled out blacks for discriminatory treatment. This time, the government encountered a favorable district court judge in J. Skelly Wright. In contrast to T. Hoyt Davis in Georgia and in the tradition of J. Waties Waring of South Carolina, Wright upheld the constitutionality of the Civil Rights Act, issued an injunction against racial purging of the voter lists, and ordered the restoration of nearly 1,400 people to the ranks of registrants. The Supreme Court agreed with him.[107]

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[104] Numan V. Bartley, *The Rise of Massive Resistance: Race and Politics in the South during the 1950s* (Baton Rouge: Louisiana State University Press, 1969), 185.

[105] *Atlanta Journal and Constitution*, April 27, 1958, 10F.

[106] Adam Fairclough, *Race & Democracy: The Civil Rights Struggle in Louisiana 1915-1972* (Athens: University of Georgia Press, 1995), 227-28.

[107] *United States v. Thomas,* 177 F. Supp. 335 (1959), 180 F. Supp. 10 (1960), 362 U.S. 58 (1960). Fairclough, *Race and Democracy*, 230; Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit Who Translated the Supreme Court's Brown Decision into a Revolution for Equality* (New York: Simon & Schuster, 1981), 112-35.

Tuskegee, Alabama

In the black belt of Alabama, known for the color of its fertile soil as well as the preponderance of African Americans, white supremacists devised a variety of methods to curtail black suffrage. Located 45 miles from the Montgomery capital, Tuskegee had a long history of black community development and agitation for first-class citizenship. The Tuskegee Institute, founded by Booker T. Washington in the 1880s, drew black teachers and students to the town and created an educated middle class within the larger, primarily poor, rural black population of Macon County. The Veterans Administration Hospital, constructed in 1923, provided additional employment opportunities for black physicians, nurses, and technicians. The town had blossomed even more during World War II, when it housed a base to train black pilots to fight in the war. African Americans held a majority of the white-collar jobs in town.

Despite their success or more likely because of it, black Tuskegeeans faced relentless discrimination in exercising their right to vote. White officials correctly perceived a threat to their power if they allowed the majority of qualified blacks to register. Enrollment officers administered literacy tests to keep blacks off the rolls. This obviously required a good deal of discrimination because black college graduates had no greater chance of registering than did those with little more than a grade school education. Registration boards accepted applications and then failed to notify blacks of the results. On still other occasions, board members asked blacks, but not whites, to furnish the names of registered voters who could vouch for them. With so few blacks enrolled, the system of vouchers meant that the numbers remained low. In 1958, although blacks comprised 84 percent of Macon County's population, white voters outnumbered black voters two-and-a-half-times.[108]

As one might expect, Tuskegee's African American middle class did not remain silent in the face of this discrimination. During the 1930s, Charles G. Gomillion, a sociologist at the Institute and a registered voter, campaigned to enroll qualified blacks. In 1941, he formed the Tuskegee Civic Association (TCA) and organized around the idea of "civic democracy." Only by acquiring the opportunity to cast a ballot, Gomillion reasoned, could blacks obtain their fair share of municipal services to improve health and education. In the late 1940s, the TCA, aided by one of the only sympathetic white registrars, succeeded in enrolling some 400 additional blacks. However, white segregationists fought back. In 1957, State Senator Sam M. Engelhardt, Jr., who represented Macon County, sponsored a bill designed to eliminate all African American voters in Tuskegee. The legislature agreed and redrew the boundary lines of Tuskegee in the shape of a salamander, thereby removing black voters from participating in town elections.

Black Tuskegeeans fought back. Two years after the Montgomery bus boycott, the TCA organized a selective buying campaign against local white merchants to defeat the gerrymander. On June 25, 1957, Gomillion convened a meeting at the Butler Chapel African Methodist Episcopal Zion Church to inaugurate the boycott.[109] As in Montgomery, churches played a large role in convening mass meetings and keeping up the morale of people living in town and in the surrounding countryside. The boycott helped unify the black community, but it did not defeat the gerrymander. The Supreme Court accomplished this. In 1960, the high tribunal ruled in

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[108] Lawson, *Black Ballots*, 209; Lawson, *Running for Freedom*, 56-57.

[109] Robert J. Norrell, *Reaping the Whirlwind: The Civil Rights Movement in Tuskegee* (New York: Vintage, 1985), 93. Booker T. Washington founded Tuskegee Institute at this historic location.

Gomillion v. Lightfoot that the legislature had violated the Fifteenth Amendment in sending Tuskegee blacks into political exile under the guise of redistricting.[110]

Before this judicial victory, the civic association pressed its case before Congress. Together with William P. Mitchell, an employee of the hospital and executive secretary of the TCA, Gomillion testified before a Senate committee holding hearings on the 1957 civil rights bill. They carefully documented the instances of racial discrimination against Tuskegee blacks persisting over two decades. When the Civil Rights Commission, created under the 1957 law, convened televised hearings in Montgomery in December 1958, it learned firsthand of the experiences of black property owners, taxpayers, farmers, veterans, college graduates, and hospital employees from Tuskegee and Macon County who had been barred from registering. At the same time, the commission received no cooperation from local white officials who refused to testify or invoked the Fifth Amendment so as not to incriminate themselves.[111]

Instead, the Justice Department tried to enjoin Macon County authorities from preventing black registration. In one of three cases initially brought under the 1957 Civil Rights Act, the attorney general filed suit against the state of Alabama because the board of registrars had ceased functioning through resignations and the death of one of its members. Based on a technicality in the law, the lower federal court ruled in *United States v. Alabama* that under the 1957 act only registrars, and not the state itself, could be sued for injunctive relief. After Congress changed the wording in 1960 to include state governments under this provision, the same federal judge, Frank M. Johnson, in the fashion of Judge Wright, ordered Macon County to cease discriminating against black citizens. By the end of 1961, more than 2,500 blacks, double the previous number, signed up to vote.[112]

Fayette County, Tennessee

While African Americans in Tuskegee squared off against white officials who sought to deter them from voting, a group of courageous blacks began a voting campaign in Fayette County, Tennessee, whose county seat of Somerville is located 50 miles from Memphis in the southwestern portion of the state. Before it was over, the suffrage campaign led to the eviction of black sharecroppers, the erection of a Tent City for the dislocated, and the intervention of the Federal government in support of black voting rights. Unlike later sites of voting rights protests, such as in Greenwood, Mississippi and Selma, Alabama, the events in Fayette have received scant attention from historians. However, their significance should not be underestimated. The voting struggle that lasted for some three years demonstrated the importance of local movements in pushing the civil rights struggle forward and persuading the Federal government to come to their side. The catalyst for the massive voter registration drive that led to the eviction of hundreds of sharecroppers and their families in 1959-1960 was the trial of Burton Dodson. In 1941, Dodson fled his farmhouse in Fayette County after a shoot-out with white night-riders that left one white man dead. Earlier that day he had gotten into an argument with a white man over a black woman and eventually the two of them "came to blows." The white man, having been offended by Dodson's actions gathered a mob and went to his farmhouse in the middle of the

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[110] *Gomillion v. Lightfoot*, 365 U.S. 339 (1960). Philip Lightfoot was the mayor of Tuskegee.

[111] Lawson, *Running for Freedom*, 59-60; Norrell, *Reaping the Whirlwind,* 110-20.

[112] *United States v. Alabama*, 171 F. Supp. 720 (1959), 363 U.S. 602 (1960); Lawson, *Running for Freedom,* 60-61; Bass, *Unlikely Heroes*, 66-100.

night. "They were shootin' from the smokehouse and outa the top of trees and all out from around the house," remembered Harpman Jameson. Dodson was able to escape by running out the back of his house "running west, shootin' back, and that mob chased him into the woods."[113] Dodson exiled himself to East St. Louis, Illinois and stayed for 18 years. In March 1959, word got out that he was still alive (he was in his 70s by then), and he was brought back to Fayette County to face murder charges.

The trial that April was important to local blacks because Dodson was defended by a black lawyer named James F. Estes. Estes drove from Memphis for the trial and African Americans in Fayette County flocked to the courthouse to watch him work since "a black lawyer appearing to defend a black man was unheard of. People put aside their farm work and flocked to the courthouse to see it for themselves."[114] John McFerren and Harpman Jameson, African American farmers in the area, wanted to serve on the grand jury. When "we found out you had to be registered before you could serve on the grand jury," Jameson said, " . . . we got interested in registerin' and getting our people registered." After Burton Dodson received a 20-year sentence for a murder he did not commit, Jameson and McFerren "began to register to vote."[115]

At the time of the trial, 16,927 African Americans lived in Fayette County, Tennessee, making up the majority (68.9 percent) of the population, yet only 58 blacks had managed to sign up to vote between 1952 and 1959.[116] One month after the trial, McFerren and Jameson organized the Fayette County Civic and Welfare League, incorporated, and held their first voter registration rally at the Fayette County courthouse in Somerville. (They also helped form a sister organization in neighboring Haywood County.) That day they registered 300 African Americans. In July, they registered another 380. After that, however, the registrar began to make things difficult for African Americans: "And we began to get a whole lotta junk then and up through the years," Jameson remembered. "There was one day somebody got up on the courthouse and sprinkled pepper down on the people. And they got up there paintin' one day and they were throwin' paint down on the people in line. And we have had a tough time getting registered all the way on up until now."[117]

When African Americans went to vote for the first time that August, they were turned away and told that the primary election was for whites only. McFerren sought out the help of James F. Estes, the same attorney who defended Burton Dodson earlier that year, and asked him if they could file a legal complaint with the Federal government. Estes thought they could under the Civil Rights Act of 1957, and so they drove to Washington, D.C. to meet with John Doar, a lawyer in the newly created Civil Rights Division of the Justice Department.[118] In November 1959, McFerren, Jameson, Estes, and two others made the 22-hour journey and returned to

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[113] Robert Hamburger, *Our Portion of Hell: Fayette County, Tennessee: an Oral History of the Struggle for Civil Rights* (New York: Links Books, 1973), 3.

[114] Ibid., 4.

[115] Ibid., 28.

[116] Ibid., 4. For an informative web site that outlines the details of the struggle, see "October 1960, The Untold Story of Jackson's Civil Rights Movement," at www.jacksonsun.com/civilrights/, maintained by *The Jackson Sun*.

[117] Ibid., 28.

[118] Ibid., 7.

Fayette County with word from the Justice Department that it planned to bring an indictment against the landowners who denied them the right to vote. The lawsuit filed by the Justice Department charged the Fayette County Democratic Executive Committee and its members with failing to let African Americans vote in the August 1 Democratic Primary. Members of the Fayette County Election Commission resigned in hopes of creating a county-wide shutdown of voter registration and evading the lawsuit.[119]

Nevertheless, on April 25, 1960, the Justice Department and the county settled the dispute, which led to the appointment of new election commissioners and an agreement to end voting discrimination. As a result, nearly 1,000 added their names to the electoral lists. Spurred on by the federal decree, blacks held mass meetings in the spring of 1960. African Americans met at Mount Olive Baptist Church—the only church in the area that would allow the Fayette County Civic and Welfare League to meet regularly.

This upsurge in black suffrage spurred white reprisals. By the fall of 1960, the White Citizens' Council had created a "blacklist" that contained the names of every registered African American. White business owners passed the list around—even to businesses outside Fayette County—and used it to target blacks for economic retaliation. White grocers refused to sell milk and other necessary foodstuffs. Banks refused to give loans. Oil companies stopped delivering and selling gas, and white farmers "began an explicit, publicized campaign to mechanize and convert their farms to eliminate the need for Negro labor."[120] Additionally, Gulf, Esso, Texaco, and Amoco oil outlets refused to sell oil and gas. It was not until August 1960, after the NAACP threatened to boycott the oil companies with its 350,000 members, that the embargo was broken.

Worst of all, sharecroppers who registered to vote were evicted from their homes and kicked off the land they had worked for decades. Black farmers who were already mired in poverty struggled to simply stay alive. James Forman, who worked as a volunteer and citizenship teacher in Fayette County in 1961, estimated that over 700 sharecropping families were evicted that year.[121] (Other estimates put the number between 257 and 400.) Most of them had no money and could not find work. They could not get credit at grocery stores and could not access medical care. When the Justice Department heard about the evictions, it filed another lawsuit. On December 14, 1960, according to historian Robert Hamburger, the Justice Department "invoked its unused powers and filed a suit against forty-five landowners, twenty-four merchants, and a bank—all seventy parties were accused of violating the civil rights of black citizens of Fayette County."[122]

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[119] "October 1960, The Untold Story of Jackson's Civil Rights Movement," at http://www.jacksonsun.com/civilrights/.

[120] Fayette County Project Volunteers, *Step by Step: Evolution and Operation of the Cornell Students' Civil-Rights Project in Tennessee, Summer, 1964*, ed. Douglas Dowd and Mary Nichols (New York: W. W. Norton, 1965), 33.

[121] James Forman, *The Making of Black Revolutionaries: A Personal Account* (New York: Macmillan, 1972), 116. Hamburger says that "257 people in all were thrown off their farms," 6. *The Jackson Sun* states landowners evicted 400 African Americans according to the Justice Department's December 1960 lawsuit. "October 1960, The Untold Story of Jackson's Civil Rights Movement," at http://orig.jacksonsun.com/civilrights/sec4_timeline.shtml, accessed on August 21, 2009.

[122] Hamburger, *Our Portion of Hell*, 4. The case was *United States v. Atkeison et al.*, (WD Tenn., Civil Action #4131, 1961).

Georgia Mae Turner registered in August 1960—timed to make sure she received her last paycheck—and shortly thereafter, her employer for 38 years told her she had to pack her stuff and leave before the start of the New Year. "She made me get out of her house in the snow," Turner recalled. "I had to get out before winter was even over."[123] Even though she was evicted, Turner tried to maintain a sense of humor: "They say if you register, you going to have a hard time. Well, I had a hard time before I registered. Hard times, you could have named me that—Georgia Mae Hard Times." Besides always living in "hard times," Turner said she went to register "because I want to be a citizen . . . I registered so that my children could get their freedom. I don't figure it would do me no good."[124]

Evicted sharecroppers like Georgia Mae Turner moved to "Tent City"—a stretch of land owned by Shepard Towles, an independent African American farmer. Towles allowed the sharecroppers to pitch tents on his land and live there while they protested their evictions and demanded their right to vote and be free. A second camp was set up near Moscow, Tennessee on land owned by Gertrude Beasley, an African American woman. While Tent City was "the scene of severe hardship" it was also "a symbol of defiance and fierce pride."[125] Tent City also became the site of several shoot-outs between members of the White Citizens' Councils and the African Americans who lived there. James Forman described the armed guards that kept watch over the tents each night: "black men with guns, guns, and more guns were deployed around the tents, on the side of the road, behind bushes, and in the fields."[126] Early B. Williams, a resident of Tent City, was hit by a stray bullet one night and had to be driven all the way to Memphis to receive medical care. The bullet just barely missed his sleeping toddler.[127]

That summer and fall, "Tent City" received national attention in the *New York Post, Ebony,* and the *New York Times*, which helped stimulate food and clothing drives all around the country. Tent City residents received assistance, food, and supplies from various organizations including the Student Nonviolent Coordinating Committee (SNCC), the Southern Conference Education Fund, the Quaker's Operation Freedom, the Emergency Relief Committee, the Congress on Racial Equality (CORE), the NAACP, and the National Freedom Council.[128] According to Robert Hamburger, a "convoy of seven forty-foot trucks carried 150 tons of food and clothing from New York to Tent City."[129] (The Federal government did not authorize shipments of "surplus" food until July, 1961.)[130]

While members of Tent City, the Fayette County Civic, and Welfare League—especially John McFerren and Harpman Jameson—scored a major victory in the Justice Department lawsuit. It

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[123] Forman, *Making of Black Revolutionaries*, 123.

[124] Ibid., 126.

[125] Hamburger, *Our Portion of Hell*, 6.

[126] Forman, *Making of Black Revolutionaries*, 127.

[127] Hamburger, *Our Portion of Hell*, 74-75; Forman, *Making of Black Revolutionaries*, 127-28.

[128] Fayette County Project Volunteers, *Step by Step*, 36; Forman, 134-37. Forman became Executive Director of the Student Nonviolent Coordinating Committee.

[129] Hamburger, *Our Portion of Hell*, 85.

[130] Forman, *Making of Black Revolutionaries*, 140.

brought about retaliation on a massive scale by local whites, and it was not until late June 26, 1962, when a consent decree in federal district court in Memphis ended all pending lawsuits against the 74 defendants, landowners, and merchants. The agreement permanently "enjoined the defendants from engaging in any acts for the purpose of interfering with the right of any person to vote."[131] The ruling was a technical victory; reprisals against African Americans continued and many found it difficult to gain suffrage rights without risking their lives or livelihoods thereafter. Still, it was a major win that yielded tangible results: in 1966, the first African American men and women were elected to the Fayette County Quarterly Court.[132]

Citizenship Schools

The 1957 Civil Rights Act, which the Federal government used in Fayette County, had its greatest value come from stimulating renewed black voter registration drives and citizenship education classes, which in turn demonstrated the need for stronger federal intervention. Citizenship schools developed from the community organizing workshops of the Highlander Folk School in Monteagle, Tennessee. Established in the 1930s by activist Myles Horton, Highlander sought to democratize the South by promoting unionization and racial equality. It operated on the belief that the oppressed should help themselves. In 1956, Septima Clark, a South Carolina educator and civil rights activist, became the director of workshops at Highlander. Soon after, she initiated a citizenship school on Johns Island, off the coast of South Carolina.

To this end, Clark enlisted Esau Jenkins, a local leader who needed help in trying to register blacks to vote. Jenkins had formed the Progressive Club, which had 26 members and met in a building that the group had fixed up. The front of the building functioned as a grocery store, and in the back, hidden from whites, citizenship classes were held. Clark's cousin, Bernice Robinson, a beautician, ran the classes and adopted a curriculum that emphasized the practical experiences of the adult students. This approach fit in with Highlander's and Clark's philosophy of having ordinary citizens teach each other and not relying on experts who might prove intimidating. Although Clark considered voter registration and literacy important objectives, her main purpose was to foster development of community leaders who would use their skills to confront the day-to-day problems facing blacks. Besides suffrage, the citizenship schools led to the creation of a credit union, nursing home, kindergarten, and a low-income housing project. By 1961, 37 citizenship schools on Johns Island and other nearby Sea Islands succeeded in increasing black voter registration despite the overall decline throughout the rest of the state.[133]

The success of the schools attracted the attention of the SCLC. In 1961, Dr. King's group took over the program and established two training centers. One was at the Dorchester Boys' Academy in Midway, Georgia. Housed in the boys' dormitory, the SCLC employed 700

[131] Fayette County Project Volunteers, *Step by Step,* 34.

[132] Hamburger, *Our Portion*, 97-105.

[133] Charles M. Payne, *I've Got the Light of Freedom: The Organizing Tradition and the Mississippi Freedom Struggle* (Berkeley: University of California Press, 1995), 69-76.

teachers and turned out thousands of new voters. The SCLC conducted a second training school at Penn School in Frogmore, South Carolina on St. Helena Island.[134]

Civil Rights Act of 1960

The generally slow pace of registration, the legal obstructions encountered by the Federal government, and the public exposure of suffrage abuses in Alabama persuaded congressional lawmakers and the president to seek new voting remedies. They also had a political incentive. The 1958 congressional elections increased the Democratic majority and bolstered support for civil rights measures. Both parties viewed the returns as foreshadowing possibilities for the presidential election two years away. As Democratic prospects appeared to brighten, Republicans made their own calculations for retaining the White House. In a contest that was expected to be close, the GOP acknowledged "the vote of Negroes may well be crucial in determining which party wins the Presidency."[135] The Eisenhower administration, which had been hesitant to introduce any new civil rights legislation, began drafting a bill to strengthen enforcement of the suffrage.

Once again, the president wanted to avoid the issue of granting the Justice Department the same powers in school desegregation as the 1957 Civil Rights Act had extended to voting. Nor did he intend to do more than deal with technical problems that the government had experienced in implementing the 1957 law. Eisenhower recommended a provision that required states to preserve all suffrage records for a three-year period and open them up for inspection by the attorney general. This would counter the Alabama legislature's authorization of registrars to destroy their files as quickly as they pleased. Also related to the Alabama experience, the administration sought to empower the Justice Department to sue a state if the board of registration ceased to function.

The need for a stronger franchise proposal became evident in September 1959, after the Civil Rights Commission released its report. Based on the hearings in Alabama, the commission concluded that the Civil Rights Division had not vigorously implemented the 1957 law, but even if it had performed better, the commissioners doubted that emphasizing litigation would have enfranchised blacks. Reliance on the judiciary proved slow, as states improvised new procedures to evade previous decisions and federal district judges, upon whom adjudication depended, generally reflected the racial views of the local communities. Thus, the commission proposed a plan that permitted the president to dispatch federal voting registrars to those areas that were proven to prevent blacks from registering to vote. After receiving nine or more sworn affidavits of racial bias from a particular locality and having them verified by the Civil Right Commission, the president would direct a federal registrar to sign up all qualified black voters.[136]

Until the commission released its report, all civil rights bills introduced in Congress had stalled in committee. Not only had the Civil Rights Commission brought new momentum, but it also focused greater attention on voting than on other issues such as school desegregation. However,

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[134] Sandra B. Oldendorf, "The South Carolina Sea Island Citizenship Schools, 1957-1961," in *Women in the Civil Rights Movement: Trailblazers & Torchbearers, 1941-1965*, ed. Vicki L. Crawford, Jacqueline Anne Rouse, and Barbara Woods (Brooklyn: Carlson Publishing, 1990), 174.

[135] Lawson, *Black Ballots*, 222.

[136] United States Commission on Civil Rights, *Report of the United States Commission on Civil Rights, 1959* (Washington, DC: U.S. Government Printing Office, 1959), passim.

the Eisenhower administration substituted its own recommendation for that of the commission. Desiring to continue to rely on the judiciary and avoid angering the South by deploying federal registrars in the region reminiscent of Reconstruction, Attorney General William P. Rogers called for judges to appoint "referees" to help them determine if blacks had been illegally denied the vote and certify them to cast a ballot if they proved qualified. Congressional liberals still preferred the registrar plan and sought ways to merge the two.

Once again, Lyndon Johnson's leadership proved crucial. In collaboration with his Republican counterpart, Senator Everett Dirksen of Illinois, on February 15, 1960, the majority leader invoked a parliamentary procedure to place directly on the floor a civil rights bill passed by the House the previous year, thereby circumventing its submission to James Eastland's Judiciary Committee. When southerners mounted a filibuster in protest, Johnson mobilized his troops and kept the Senate in round-the-clock sessions to wear down opponents. He brought in army cots for weary senators, and their offices and the cloakroom looked like a field camp from the Civil War. On the other side, Richard Russell commanded the Dixie forces and kept his senatorial brigade in line to defeat a cloture vote on March 10.

In the meantime, the House passed a voter referee bill along the lines recommended by the administration. When the measure went to the Senate, Johnson referred it to Eastland's Committee, this time with instructions to report it back by March 29. When the bill reemerged on the Senate floor on schedule, civil rights liberals led by Thomas Hennings of Missouri, Philip Hart of Michigan, and Joseph Clark of Pennsylvania attempted to amend it to include a version of the Civil Rights Commission's registrar proposal. With both the Eisenhower administration and Johnson firmly opposed to any major revisions, the amendment went down to defeat. On April 8, the voter referee bill, with some technical adjustments, passed. Enforcement of voting rights would continue to depend on the judiciary and discretion of local federal judges overseeing it. The administration claimed victory, Johnson steered a middle course between his party's opposing blocs, the South once again avoided a school desegregation measure, and only the liberals and civil rights forces were upset. Thurgood Marshall called the law a "fraud," and Senator Clark sarcastically declared: "Surely in this battle on the Senate floor the roles of Grant and Lee have been reversed. The eighteen implacable defenders of the way of life of the Old South are entitled to congratulations from those of us they have so disastrously defeated."[137]

SNCC and Mississippi

Since the days of testifying against Senator Theodore Bilbo in 1946, black Mississippians had endured great difficulties in cracking the solid edifice of Jim Crow and disenfranchisement in the Magnolia State. Following the reign of terror in the mid-1950s that led to the deaths of Emmett Till and George Lee and the shooting of Gus Courts, civil rights supporters virtually disappeared from public view. The historian of the Mississippi civil rights struggle, John Dittmer, quotes one of these activists: "If you were a member of the NAACP you kept it kind of a secret. If you had any kind of job or anything you couldn't let it be known."[138] As a result, Mississippi had the worst record of black voter registration in the South. In 1960, only about 5 percent of the adult black population in the state managed to enroll, compared with 29 percent for the rest of the region.

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[137] Lawson, *Black Ballots,* 246, 247.

[138] Dittmer, *Local People*, 101.

By 1961 movement supporters began to seek outside help. SNCC had arisen out of the sit-in demonstrations at lunch counters throughout the South (but not in Mississippi). Together with CORE, an interracial organization that had formed in the North in 1942 to protest discrimination in public accommodations, SNCC initiated a series of freedom rides from Washington, D.C. to Jackson, Mississippi in the spring and summer of 1961. After some bloody attacks against the freedom riders in Alabama, the protesters arrived in Mississippi, spared from violence but subject to arrests and incarceration in the state prison at Parchman. These mainly young crusaders gave hope to those African Americans who had sustained their underground movement for freedom in Mississippi.

Besides the freedom riders, SNCC sent voter registration workers to Mississippi. One of those intrepid pioneers was Robert Parris Moses. He had grown up in New York City and had earned a Master's Degree in Philosophy from Harvard. Moses was teaching mathematics at a prestigious private high school in the Bronx when the sit-ins began. Inspired by these protests, in the summer of 1960 Moses went to work for SNCC in Atlanta. He met Ella Baker, who had held administrative positions in the NAACP and the SCLC and had been a major influence in the formation of SNCC. Her ideas about the need for the civil rights movement to organize local communities and develop indigenous leadership rather than depend upon national leaders and mass demonstrations resonated with Moses. He traveled into the Mississippi Delta to gather information about local leaders to invite to a conference that SNCC was planning. There he met Amzie Moore in the small town of Cleveland. Moore was a veteran of the black freedom struggle and had worked with the NAACP and the Regional Council of Negro Leadership. A businessman and postal worker, Moore saw students as providing the force to rejuvenate the battered civil rights movement in the state. He convinced Moses to return the following summer and concentrate on voter registration. Moore did not see much benefit from protests against segregated public accommodations because most blacks in the area were too poor to take advantage of them. Rather, he emphasized the right to vote, which he believed would provide the political power to achieve genuine equality.[139]

After quitting his teaching job, Moses returned to Mississippi in 1961. Amzie Moore had not come up with the resources to undertake a voter registration drive, but he did send Moses to McComb in Pike County, 75 miles from Jackson, where blacks were ready to start a suffrage campaign. Curtis Conway (C. C.) Bryant, the president of the NAACP in McComb had kept his branch alive during the 1950s. Just about the time the freedom riders were entering the state in the spring of 1961, Bryant read an article in *Jet* magazine about Bob Moses and his plan to launch a voter registration drive. In mid-July, Moses moved in with the Bryant family and began canvassing black neighborhoods with Webb Owens, a retired railroad employee and NAACP leader. Through his contact with Bryant and Owens, Moses succeeded in gaining support from black business people and ministers. The Society Hill Baptist Church supplied the use of its mimeograph machine and the Masonic Temple provided the room to conduct voter education classes in which blacks learned how to fill out the complicated Mississippi registration forms. By this time, two additional SNCC workers, Reginald Robinson and John Hardy, had joined Moses, and they succeeded in registering a handful of people and attracting more than two dozen to their classes.

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[139] Ibid., 102-03; Eric R. Burner, *And Gently He Shall Lead Them: Robert Parris Moses and Civil Rights in Mississippi* (New York: New York University Press, 1994), passim; Barbara Ransby, *Ella Baker & the Black Freedom Movement: A Radical Democratic Vision* (Chapel Hill: University of North Carolina Press, 2003), 251.

Word of their success traveled to surrounding counties and brought requests for SNCC to establish classes in them. Moses went to neighboring Amite County and made contact with the local leader, Eldridge W. (E. W.) Steptoe, the founder of the NAACP chapter. Moses, who along with other SNCC organizers was committed to nonviolence, quickly discovered that rural blacks like Steptoe stored guns in their houses to protect themselves against white harassment. On August 15, Moses took three people into Liberty, the ironically named county seat, to register and was arrested for the first but not the last time. The following week one of the sheriff's cousins slammed the blunt end of a knife into Moses's head, requiring the SNCC organizer to receive eight stitches for his bloody wound. Although Moses brought criminal charges against his attacker, a bold move for a black man to take against a white man in this repressive county, an all-white jury acquitted the assailant. Nevertheless, through his courage and boldness, Moses attracted other SNCC workers to join him in southwest Mississippi and inspired local youths to venture into the movement. Two of them, Hollis Watkins and Curtis Hayes, who lived just outside of McComb, organized a demonstration against segregated facilities and were arrested.

With the upsurge of protest, segregationist violence accelerated. On September 7, John Hardy accompanied two black applicants to register to vote in neighboring Tylertown in Walthall County. The registrar hit Hardy over the head with a gun, warning him: "Stay out of here, you dumb son of a bitch." Adding insult to injury, the sheriff, John Q. Wood, then arrested Hardy for disorderly conduct.[140] A few weeks later, on September 25, E. H. Hurst, a state legislator, shot and murdered Herbert Lee near Liberty. Lee belonged to the NAACP and worked with Moses on voter registration. Hurst claimed that he had gotten into a dispute with Lee over money and that Lee had attacked him first with a tire iron. When Hurst whipped out his gun to protect himself, he claimed, it accidentally fired and killed Lee. A coroner's jury backed up Hurst's version.[141]

In the face of this terror, the voter registration campaign fizzled. McComb's black high school students continued to protest segregation through sit-ins and marches, which led to arrests and expulsions from school. Bryant and other community elders had only bargained for voter registration and not mass demonstrations that would expose their children to danger. The man who had invited Moses into his community withdrew support for SNCC. The final blow came on October 31, when Moses and several SNCC workers were convicted of disturbing the peace and sent to jail for up to six months. From his cell in the town of Magnolia, an undaunted Moses recorded his thoughts: "This is Mississippi, the middle of the iceberg. Hollis [Watkins] is leading off with his tenor, 'Michael row the boat ashore, Alleluia; Christian brothers don't be slow, Alleluia; Mississippi's next to go, Alleluia.' This is a tremor in the middle of the iceberg, from a stone that the builders rejected."[142] The following month, Moses and his comrades walked out of jail on bail money provided by the Southern Conference Educational Fund, the successor to the SCHW. Having failed to crack the iceberg in McComb, they nevertheless remained in Mississippi, continued to organize blacks around voter registration, and chipped away at the glacier of white supremacy.

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[140] Dittmer, *Local People*, 108. The Civil Rights Division filed litigation that prevented the state from bringing Hardy to trial.

[141] Ibid., 109.

[142] Ibid., 114.

The Kennedy Administration

John F. Kennedy had defeated Richard Nixon for the presidency in 1960 by a razor-thin margin of less than 1 percent of the popular vote. The African American electorate helped swing the balance of power to Kennedy's side in New Jersey, Michigan, Illinois, Texas, and South Carolina, all states that had supported Eisenhower in 1956. Overall, Kennedy brought back to the Democratic Party the 7 percent of black ballots that had defected to the Republicans four years earlier. The Massachusetts senator mainly owed this increased support from black voters to a highly publicized incident during the campaign. In late October, Reverend Martin Luther King, Jr. had been arrested in Atlanta after participating in a sit-in demonstration to integrate eating facilities in Rich's department store. After King was sent to the state prison in Reidsville, Kennedy telephoned Mrs. Coretta King to express his concern, and his aides clandestinely arranged for Dr. King's release. Vice President Nixon refused to intervene, which prompted King's father, a prominent minister and previously a Nixon supporter, to throw his endorsement to Kennedy.[143]

Ironically, during the 1950s, Kennedy's record on black civil rights was unspectacular and virtually indistinguishable from Nixon's. He operated more from political than moral conviction. As a northerner, he spoke out in favor of the *Brown* ruling and routinely voted for passage of the two civil rights acts. Yet, he had lined up behind Johnson's effort to add a jury trial amendment to the 1957 law, and he worked to secure the backing of segregationist governors such as John Patterson of Alabama for his presidential nomination. Within the Democratic Party, Kennedy was considered a moderate between the liberal and conservative wings. He intended to take a cautious approach toward implementing civil rights in the South and opposed policies that resembled federal intervention during Reconstruction.[144]

Whatever Kennedy's intentions may have been, they were altered by pressure from the civil rights movement. The Freedom Rides in 1961 forced the Kennedy administration to dispatch federal marshals to Montgomery, Alabama to protect the demonstrators. A year later, the president had to deploy federal troops to Oxford, Mississippi to quell a riot that erupted after James Meredith became the first African American to gain admission to the state university campus. Still, the president and his brother Robert, whom he had appointed attorney general, preferred to keep federal force out of the South and defuse potential crises through appealing to southern officials to obey the law of the land. Because they recognized that mass demonstrations to desegregate public accommodations and schools tended to provoke unruly confrontations between blacks and whites, the Kennedys sought a more orderly means of promoting civil rights without attracting unflattering headlines. At a time when President Kennedy stepped up the Cold War with the Soviet Union, the chief executive wanted to avoid unfavorable publicity that besmirched America's claim as the defender of democracy against Communist tyranny.[145]

Now that the Supreme Court had upheld the constitutionality of the 1957 Civil Rights Act, the Kennedy administration acted to increase the number of voting suits brought under it. With his

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[143] Lawson, *Black Ballots*, 255-56; Harris Wofford, *Of Kennedys & Kings: Making Sense of the Sixties* (New York: Farrar, Straus and Giroux, 1980), 13-25.

[144] Lawson, *Running for Freedom*, 76; Carl M. Brauer, *John F. Kennedy and the Second Reconstruction* (New York: Columbia University Press, 1977), passim.

[145] Dudziak, *Cold War*, 152-202.

brother in charge of the Justice Department, the president intended to use the courts to make its presence in Dixie lightly felt and to avoid loud confrontations that protests for desegregation could provoke. The Civil Rights Division, led by Assistant Attorney General Burke Marshall and his top aide John Doar, sent lawyers into those southern communities with the worst records of black enrollment. Doar visited McComb and filed litigation that ended prosecution of SNCC's John Hardy.

Although President Kennedy preferred to operate through the courts, the chief executive could not side step demands for legislation. On September 9, 1961, the Civil Rights Commission once again issued a report that embarrassed the White House, pushing it to introduce a new remedial suffrage measure. After holding extensive hearings in New Orleans, the commission found that southern registrars "have built a fortress against Negro registration with such procedural impediments as interpretation of the Constitution, identification, calculation of age, and filling in application blanks."[146] The panel contended that the Civil Rights Acts of 1957 and 1960 would not solve the immediate problem, because the case-by-case adjudication by the courts proceeded too slowly. Instead, it recommended passage of legislation requiring state registrars to automatically accept six grades of formal schooling as proof of literacy.

In response, the Kennedy administration decided to act. First, it supported a constitutional amendment to prohibit poll taxes as a voting qualification, but limited it only to federal elections. Introducing this proposal did not break any new ground, which perhaps explains why it proved successful. In 1964, the states ratified the Twenty-fourth Amendment incorporating the Kennedy anti-poll tax language. Second, the Justice Department drafted a bill that borrowed a page from the Civil Rights Commission's report. The measure established a sixth grade education as the standard to prove literacy in registration and voting in federal elections. To ruffle fewer southern feathers, the bill excluded coverage of state elections.

However, even this mild bill went down to defeat. The usual southern opposition formed to derail the proposal by waging a filibuster. Unlike successful attempts in 1957 and 1960, the Kennedy administration declined to make a fight to impose cloture. After some perfunctory debate in the Senate, in early May 1962, Kennedy's legislative forces lost the battle to shut off the filibuster and quickly abandoned the effort.[147]

The outcome reflected the Kennedy administration's meager commitment to seeking legislation and its preference for extending the right to vote through the courts. To push civil rights activists off the streets, the president offered them financial incentives to undertake voter registration drives backed by Justice Department litigation. Assistant Attorney General Marshall and White House civil rights advisor Harris Wofford persuaded several philanthropic foundations to finance suffrage campaigns. In a series of meetings in June and July 1961, the government brokered negotiations between the philanthropic organizations, the Taconic Foundation and Field Fund, and civil rights groups—NAACP, SNCC, SCLC, CORE, National Urban League, National Student Association, and the Southern Regional Council (SRC). The SRC had been created in

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[146] Lawson, *Black Ballots*, 289; United States Commission on Civil Rights*, Report, Voting, 1961* (Washington, DC: U.S. Government Printing Office, 1961). In 1959, the Supreme Court had ruled that North Carolina could impose a literacy test for voting to promote intelligent use of the ballot. This ruling, however, did not suggest that the federal government lacked the power to establish an impartial standard to demonstrate literacy. *Lassiter v. Northampton County Board of Elections*, 360 U.S. 45 (1959).

[147] Lawson, *Black Ballots*, 289-93.

1944 and promoted improved race relations in the South through conferences, research, and publications. Headquartered in Atlanta, by the early 1960s the group publicly endorsed desegregation and enfranchisement. From these discussions, SRC agreed to run the Voter Education Project (VEP), the foundations provided a million dollars to fund it, and the civil rights groups furnished the personnel for voter registration drives throughout the South. Wiley Branton, an Arkansas lawyer who had represented nine black students in their attempt to integrate Central High School in Little Rock in 1957, was appointed director of the project.[148]

Having spearheaded the creation of the VEP, the Federal government left the distinct impression among the civil rights groups that it would furnish protection to the suffragists if and when they encountered danger. The civil rights participants heard Burke Marshall commit the Justice Department to take whatever steps were necessary to safeguard their constitutional rights during the registration drives. In reality, Marshall left the government's intentions vague. In all likelihood, he never envisioned the kind of support civil rights activists wanted and needed to achieve their goals, especially in those sections of the South where they encountered massive resistance. Rather than dispatch Federal Bureau of Investigation (FBI) agents or federal marshals to protect harassed suffrage workers from police brutality and private terrorists, the Kennedy administration filed suits in federal courts against discriminatory law enforcement officers and voter registrars. The Justice Department contended that the FBI was not a federal police force and that under the Constitution local officials were responsible for public safety.[149] However, those very police officials violated the franchise workers' rights and intimidated them.

Relying on local law enforcement was not the Kennedy administration's sole flaw in policy. Its determination to secure voting rights through the courts also fell short of the mark. Toward this end, the White House sustained a self-inflicted wound. With a Democrat in the White House, the policy of "senatorial courtesy" required the president to consult with senators from his party in the upper chamber before making appointments of federal judges from their states. Because James Eastland of Mississippi chaired the Judiciary Committee, which had to clear judicial appointments before they reached the Senate floor, the power of the segregationists was formidable.

Kennedy appointed five men to the Fifth Circuit Court in the Deep South who frustrated the government's chances of enforcing the right to vote. William H. Cox of Mississippi, E. Gordon West of Louisiana, Robert Elliott of Georgia, and Clarence Allgood and Walter Gewin of Alabama used their positions to resist implementation of suffrage laws. Cox had roomed with Eastland in law school and shared his white supremacist outlook. If ever African Americans needed judicial assistance it was in Mississippi. They did not find it from Cox, who openly referred to blacks in court as "niggers" and denounced Civil Rights Division attorneys for wasting his time with "lousy cases." It took years before higher federal courts of appeals reversed the discriminatory decisions of these judicial resisters, and Assistant Attorney General

[148] Pat Watters and Reese Cleghorn, *Climbing Jacob's Ladder: The Arrival of Negroes in Southern Politics* (New York: Harcourt, Brace & World, 1967), 44-48; Wofford, *Of Kennedys and Kings*, 159-60.

[149] Lawson, *Black Ballots*, 261-66.

Marshall admitted that by their actions they "did directly and deeply affect [the] pace" of litigation.[150] Unfortunately, for African Americans, justice delayed was justice denied.

Despite these obstacles, between April 1, 1962 and November 1, 1964, the VEP made progress. In the counties in which the VEP funded voting drives, the names of 287,000 blacks were added to the suffrage rolls. Throughout the South, an additional 400,000 blacks registered, and the percentage rose from just over 29 to about 43. The results were uneven, however. In Florida, Tennessee, and Texas, states along the southern perimeter, a majority of African Americans succeeded in registering. Next came Arkansas, North Carolina, South Carolina, and Virginia where some 40 percent of blacks enrolled. Blacks had the least success in Alabama, Louisiana, and Mississippi; less than a third had qualified to vote. Mississippi, with the highest proportion of African Americans, compiled the worst record by far—less than 7 percent.[151]

Greenwood, Mississippi

SNCC and CORE undertook the most difficult areas to organize. They concentrated in the rural South, in Mississippi, Louisiana, and southwest Georgia, where resistance to any racial change was most fierce. Although the NAACP also operated in these areas, it directed its greatest efforts in cities, which were likely to produce more success than in isolated towns, villages, and countrysides of the Black Belt. One SNCC worker summed up the problem in areas that had a long history of violence against blacks. Operating in Baker County, Georgia—"Bad Baker" as civil rights staffers referred to it—he asked: "How does one get it across to the people that we are not alone, when all around them white men are killing and getting away? Not only getting away, but also in many cases being promoted?"[152] To break this cycle of fear, suffragists tried to emphasize the link between casting a ballot and relieving everyday concerns. To risk the dangerous step of attempting to register, disenfranchised blacks had to believe that it was worthwhile and would improve their lives. In Mississippi, SNCC worker Lawrence Guyot, reminded those he came in contact with: "There is a relationship between your not being able to feed your children and your not registering to vote."[153]

One of the major challenges for SNCC came in Greenwood, Mississippi. Located in the Delta county of Leflore, where blacks comprised a majority of the population, but only 2 percent of the voters, Greenwood attracted Sam Block of SNCC in June 1962 to begin organizing around the right to vote. The murder of Emmett Till in 1955 had deeply affected Block, a native Mississippian, as it had many other young people his age. After a stint in the Air Force following high school and college, the 23-year-old returned home. Through his Cleveland neighbor, Amzie Moore, Block joined SNCC. He came to Greenwood alone and in typical SNCC fashion sought out local leaders to help with his voter registration efforts. Two of them, Cleveland Jordan, a World War II veteran, and the Reverend Aaron Johnson provided assistance. The fear he encountered greatly limited him, but he did manage to hold meetings at Johnson's

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[150] Victor S. Navasky, *Kennedy Justice* (New York: Atheneum, 1971), 244-47; Lawson, *Black Ballots*, 272, 273 for quotes.

[151] David J. Garrow, *Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965* (New Haven: Yale University Press, 1978), 19; Watters and Cleghorn, *Climbing Jacob's Ladder*, Appendix II, n.p.; Lawson, *Running for Freedom*, 80.

[152] Lawson, *Black Ballots*, 275.

[153] Lawson, *Running for Freedom*, 82-83.

First Christian Church, the Friendship Missionary Baptist Church, and the Elks Hall.[154] Throughout July and August, Block accompanied several local blacks to the registrar's office. He received warnings from the Citizens' Council to pack up and leave, and on August 13, three white men assaulted and beat him.

SNCC sent Block fresh recruits. Lawrence Guyot and Luvaughn Brown joined the beleaguered organizer at the SNCC office on 616 Avenue I. On August 16, late at night the SNCC trio looked out of their office window and saw a police car drive by followed by an automobile filled with armed men. Eight men jumped out of the car, entered the building, and climbed the stairs to the SNCC office on the second floor. Barely a step ahead of them, Block and his co-workers climbed out of the bathroom window and leaped from roof top to roof top until they evaded the assailants and took refuge in the Greenwood home of a black supporter. Once safe, Block called Bob Moses, who was staying at Amzie Moore's house. Moses jumped into a car along with Willie Peacock, a SNCC worker from Holly Springs, and arrived at the SNCC office at 2:00 a.m. They found the premises empty but with items strewn around. Demonstrating unusual bravery, Moses and Peacock went to sleep in the office, where Block and his companions found them the following morning.[155]

Despite this intimidation, Block remained in Greenwood and along with Peacock continued the organizing drive. They did not get any blacks registered, but they succeeded in enlisting local support. Laura McGhee, the sister of Gus Courts who had been shot for his voter registration activities in Belzoni in 1955, opened her home for meetings. Her three sons, Silas, Jake, and Clarence, also joined the movement. Through their daily activities in the community and their own exemplary courage, Block and Peacock enlisted aid from other families as well. The sons of Dewey Greene, Sr., who had headed the NAACP in the 1950s, and June Johnson and her mother Belle also joined the local campaign.[156]

With support gradually growing for SNCC in Greenwood, in October 1962 Leflore County officials devised a new set of reprisals. They ceased distributing surplus food furnished by the Federal government to the area's 22,000 needy residents who depended on it. SNCC developed its own system of food distribution to feed impoverished families and at the same time encourage recipients to try to register to vote. The group's allies in the North collected food and clothing and sent them to Greenwood, and the singer Harry Belafonte raised funds in New York City at a Carnegie Hall concert. The comedian Dick Gregory from Chicago not only gathered supplies but also delivered them in person. Volunteers distributed the goods from several locations: the Catholic Center and the Wesley Chapel in Greenwood, Amzie Moore's home in Cleveland, and the residence of Aaron Henry, an NAACP official who lived in Clarksdale.[157]

As blacks refused to capitulate, white supremacists responded with violence and intimidation. On February 20, 1963, following the shipment of food and clothing from Chicago, arsonists set fire to black businesses on the street housing the SNCC office, then located on McLaurin Street. When Sam Block gave a newspaper interview charging that opponents of the voter registration

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[154] Townsend Davis, *Weary Feet, Rested Souls: A Guided History of the Civil Rights Movement* (New York: W. W. Norton, 1998), 281.

[155] Dittmer, *Local People*, 129-33; Lawson, *Black Ballots*, 275.

[156] Payne, *I've Got the Light of Freedom*, 208-25.

[157] Dittmer, *Local People*, 145-46.

drive were behind the terrorism, he was prosecuted and convicted for "public utterances designed to incite breach of peace" and sentenced to six months in jail and a $500 fine. On February 28, with no let up in the registration campaign, white terrorists struck directly at SNCC. While meeting at their office with Randolph Blackwell, an official of the VEP from Atlanta, SNCC members spotted an automobile with no license plates parked outside in the street. Smelling danger, Bob Moses, who was in attendance, recommended that those inside leave the building and disperse. Moses along with Blackwell and Jimmy Travis, a SNCC staffer from Jackson, drove out of town along Highway 82 toward Greenville. Seven miles along the road, the same menacing car from Greenwood pulled alongside the SNCC vehicle and fired shots into the automobile. Travis, the driver, took two bullets, one in the shoulder and one in the neck. Though the wounds were serious, he survived.[158]

Rather than retreating, SNCC dug in even deeper. The group summoned its workers from throughout Mississippi and concentrated them in Greenwood to accelerate the voter registration drive. The white reign of terror continued. Snipers fired into the SNCC office, blowing out some windows and slightly injuring workers inside with spraying glass. On March 24, someone set fire to the SNCC office, inflicting heavy damage to its contents. On March 26, Dewey Greene and his family were awakened in the night by gunshots that blasted through their front door and crashed through a bedroom window where six of his children slept. The Greenes were a respected family in town, and Greenwood's black residents became enraged. On March 27, James Forman, SNCC's executive secretary, spoke to a crowd gathered at Wesley Chapel and then led a procession to city hall to protest the violence. Police broke up the peaceful demonstration by unleashing snarling German shepherds against the marchers, who dispersed. Ten SNCC leaders, including Moses and Forman, were arrested and jailed. The following day, this scene was replayed, but this time police attacked blacks at Wesley Chapel after returning from trying to vote.[159]

At this juncture, the demonstrations and violence against them had attracted the attention of the national media. Backed by the VEP, SNCC leaders called upon the Federal government to intervene to enforce the right to vote and protect those who tried to register. With pressure exerted upon it, the Kennedy administration filed litigation against Greenwood officials, seeking the release of the incarcerated civil rights activists and protection for those participating in the suffrage campaign. Before the government's case received a hearing, on April 3 the Justice Department engineered a compromise. Criticized by Mississippi's two powerful senators, Eastland and Stennis, for filing unnecessary litigation and worried that angry blacks in Greenwood would provoke white segregationists into increased violence, the Civil Rights Division entered into an accord with local officials. John Doar, the division's attorney who was most sympathetic to the plight of civil rights advocates, followed Justice Department instructions to drop the lawsuit in exchange for the release of the SNCC prisoners. However, both the VEP and SNCC were bitterly disappointed with the government's failure to follow through on its pledge of protection and denounced the agreement.[160]

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[158] Ibid., 147.

[159] Ibid., 151-52.

[160] Ibid., 153-57; Lawson, *Black Ballots*, 276-77.

Although SNCC continued in Greenwood and established a new office at 708 Avenue N, their efforts produced few tangible results.[161] By mid-1963, some 1,300 blacks had braved the obstacles to make an attempt to pass the literacy test and register to vote without success. With a great deal of reluctance, on November 12, 1963, the VEP decided that it could no longer afford to fund projects in Mississippi. In reaching this decision, the project's executive director, Wiley Branton, singled out the Federal government for its failure "to protect the people who have sought to register and vote or who are working actively in getting others to register."[162] Fewer than 5,000 black Mississippians had managed to enroll, which broke down to an expenditure by the VEP of $12.13 per voter. This was two and one-half times as high ($4.84) as in the next most costly state of Louisiana.[163]

Freedom Vote

Bitterly disappointed, SNCC and its allies nevertheless did not give up in the Magnolia State. Indeed, they stepped up their efforts in a two-pronged strategy to publicize the plight of Mississippi blacks and continue organizing local communities around the right to vote. Because of the fierce resistance they had met, since 1962 the civil rights forces in the state had united under the banner of the Council of Federated Organizations (COFO). Guided mainly by SNCC and CORE, COFO also gathered under its umbrella the NAACP and SCLC, although the latter group was the least active. The NAACP furnished one of its most tireless representatives in the state as COFO's president: Aaron Henry, who operated a drug store in Clarksdale in the Delta county of Coahoma. In 1963, in the aftermath of the Greenwood campaign, COFO decided to conduct a "mock election" to coincide with the regularly scheduled gubernatorial contest in the fall. Because the overwhelming majority of blacks still could not vote, the "Freedom Ballot Campaign" would attempt informally to sign up African Americans and have them cast unofficial ballots. A large turnout would show that if given a fair opportunity Mississippi blacks wanted to vote and cast their ballots.[164]

The idea for the project had developed out of discussions between Allard Lowenstein and Bob Moses. A graduate of the University of North Carolina and Yale Law School, Lowenstein served as a dean at Stanford University. He had close connections to the liberal wing of the Democratic Party and he had spoken out against apartheid in South Africa. Lowenstein envisioned that newly enfranchised Mississippi blacks, as well as those throughout the South, would help reshape the Democrats in a more liberal direction by using their clout to topple southern conservatives like Eastland and Stennis. Moses did not have the fortunes of the Democratic Party uppermost in his mind; he saw the simulated election campaign primarily as a means of organizing blacks and providing an independent electoral base to obtain their political goals. Nevertheless, both agreed that Lowenstein should use his influence on northern campuses to recruit white student volunteers to spend the fall in Mississippi to help with the campaign. Not only would this provide increased personnel, but it would also highlight for a national audience the undemocratic and brutal conditions blacks faced. Not everyone in SNCC supported

[161] Davis, *Weary Feet,* 277.

[162] Steven F. Lawson and Charles Payne, *Debating the Civil Rights Movement, 1945-1968* (Lanham, MD: Rowman & Littlefield, 1998), 83.

[163] Lawson, *Black Ballots*, 284. The average cost was $2.55.

[164] Ibid., 87; Aaron Henry with Constance Curry, *Aaron Henry: The Fire Ever Burning* (Jackson: University of Mississippi Press, 2000), 156-61.

the idea of importing highly educated whites into communities in which blacks could barely read and might feel intimidated in the presence of these well-intentioned individuals. However, Moses prevailed in his belief that blacks would have to pry support from the Federal government before they could vote.[165]

On October 6, COFO launched the campaign at its statewide convention at the Masonic Temple in Jackson. The delegates adopted a platform that endorsed school desegregation, racial justice, and expansion of the right to vote. With respect to the latter, COFO argued that Mississippi should not be entitled to administer a literacy test because it had failed to provide blacks with equal education. The convention nominated Aaron Henry to run for governor. Running with him for lieutenant governor was Ed King, the white chaplain at Tougaloo College. As expected, segregationists harassed the candidates and their campaign workers. Police in Indianola arrested civil rights workers for distributing leaflets without a permit. In Clarksdale, Lowenstein went to jail for violating the town's curfew ordinance. Student volunteers and veterans alike spent time in jail for allegedly disobeying traffic ordinances. In a few cases campaign workers found themselves shot at and chased out of town.[166]

The mock election succeeded in proving two main points about the situation in Mississippi. First, the approximately 80,000 blacks who cast their ballots, nearly four times the number of those actually registered, vividly demonstrated that given the opportunity they wanted to vote and participate as first-class citizens in the electoral process. Nearly all of them supported the Henry-King ticket. Second, a breakdown of the results underscored that numerous obstacles remained. The largest contingent of blacks signed up to vote in Jackson, the state capital and the most urban area in Mississippi. SNCC and CORE, which operated projects mainly in the rural Delta, produced fewer participants, about one-fifth of the total. For example, in Leflore County only 2,000 blacks voted in the campaign. Rather than an indication of apathy on the part of blacks, the lean participation indicated that well justified fear continued to keep blacks from voting in the most hardcore segregationist sections of Mississippi. The need for federal intervention to crush this resistance remained evident to COFO.[167]

Finally, the Freedom Vote continued the legacy of African American political participation outside of formal electoral politics. Whenever blacks had the chance to make their voices heard, whether in church meetings, fraternal organizations, labor unions, and New Deal agricultural programs, they enthusiastically did so. Indeed, African Americans had forcefully voiced their political opinions in protest marches, boycotts, and testimony before congressional committees and administrative agencies. Black women often had shown the way in the decades before they formally obtained the right to vote through the Nineteenth Amendment by the active role they played in encouraging their men to vote and making their views heard in church and women's club gatherings. The large turnout in the Freedom Ballot amply demonstrated that the flame of

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[165] Dittmer, *Local People*, 200-01; William H. Chafe, *Never Stop Running: Allard Lowenstein and the Struggle to Save American Liberalism* (New York: Basic Books, 1993), 180-82.

[166] Dittmer, *Local People*, 203-04.

[167] Ibid., 206; Lawson, *Running for Freedom*, 87.

black political involvement had not been extinguished in what Mississippi historian James W. Silver termed the most "closed society" in the United States.[168]

Other Areas of Resistance

Terrell County in southwest Georgia had also demonstrated the need for outside intervention before blacks could exercise the franchise. Dubbed by civil rights activists "Terrible Terrell," the county had been the first targeted by the Justice Department to test the constitutionality of the 1957 Civil Rights Act. Although the Federal government won in the Supreme Court, very little changed in Terrell. In 1962, SNCC field workers, led by Charles Sherrod, entered the county and adjacent Lee County to organize blacks and help them obtain the suffrage. They conducted workshops at the Mount Olive Church, and whites countered by burning down the church along with two others. Terrell's Sheriff Zeke Matthews personified the intimidation that local blacks and their SNCC allies encountered. He unabashedly told a reporter for the *New York Times*: "You know cap, there's nothing like fear to keep niggers in line."[169]

In the face of this oppression, Sherrod and his comrades continued to try and convince blacks to run the gauntlet of threats and attempt to register. However, what direct physical violence did not achieve in keeping blacks scared, economic threats accomplished. One SNCC worker summed up the situation: "[T]he main factor working against us in Terrell seems to be the organized economic tyranny of whites." For example, SNCC staff made initial contacts with Wilbert Henderson, a black farmer. When his white neighbors found out, local merchants refused to weigh his corn or deliver fuel shipments on time. Henderson backed away from SNCC.[170]

Yet SNCC did not abandon the area. It dug in and gained support from the handful of blacks that remained economically independent from whites. Two of the most important were women: Dolly Raines, who owned considerable property, and Carolyn Daniels, who owned a beauty parlor. Sherrod pointed out the value of these so-called "mamas" in southern rural communities. "She is usually a militant woman in the community," he declared, "outspoken, understanding and willing to catch hell."[171] By the end of 1963, Daniels' citizenship classes held in her beauty parlor had succeeded in getting 45 blacks signed up to vote. Nevertheless, SNCC organizers did not utilize black women to their full potential to canvass voters and relied on them mainly for household duties. With funding from the VEP, black registration in Terrell quadrupled to 340 in 1964, a significant accomplishment but one that still left the majority of African Americans off the suffrage rolls.[172]

Louisiana also provided a fierce battleground for suffragists. CORE played the leading role in organizing voter registration projects in some of the toughest parts of the Pelican State. East and West Feliciana Parishes, located east of the Mississippi River and north of Lake Pontchartrain,

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[168] For a description of the closed society, see James W. Silver, *Mississippi: The Closed Society* (New York: Harcourt, Brace & World, 1966), 6-7, 149-56.

[169] Stephen G. N. Tuck, *Beyond Atlanta: The Struggle for Racial Equality in Georgia, 1940-1980* (Athens: University of Georgia Press, 2001), 165.

[170] Ibid., 166.

[171] Ibid., 171.

[172] Ibid., 172.

provided a severe challenge to CORE. In 1962, West Feliciana had no registered black voters and East Feliciana had 80, a drop from the 1,276 that existed before the purges swept the parish in 1958. As in Southwest Georgia, the black residents of these parishes, mostly sharecroppers and tenants, depended on white plantation owners for their livelihood. Led by Ronnie Moore of CORE, the group entered East Feliciana and recruited Josephine "Mama Jo" Holmes, a 74-year-old woman, and Charlotte Greenup, an octogenarian, to open their homes to voter registration meetings. Having established a base of operation here, CORE moved on to neighboring West Feliciana, considered even more hostile. The civil rights workers enlisted the aid of Joseph Carter, a 55-year-old black minister who had not completed elementary school. His education was short, but he was long on courage. He agreed to try to register to vote at the parish courthouse in St. Francisville, whereupon the registrar denied his application and the sheriff arrested him. At a meeting in October 1963 at the Masonic Hall in Laurel Hill, Carter persuaded a group of 15 ministers to attempt to register. Following a series of CORE registration workshops, on October 17, Carter and some 40 other applicants journeyed to St. Francisville to enroll for the ballot. Despite a threat against his life, Carter managed to register, as did five others.[173]

Despite this personal success, the overall results proved disappointing. In the two years that the VEP financed projects in Louisiana, CORE registered only 4,677 new voters. Many of these gains were wiped out by the resumption of purges. Although 21 blacks had registered in West Feliciana, this constituted only 2 percent of enrolled voters. In East Feliciana, 180 blacks were on the voter lists, but this was still far less than the number of voters before the purges. In a great many parishes no progress had been made at all.[174] The experiences in Louisiana, Southwest Georgia, and Mississippi and the modest gains of the VEP in these locales highlighted the need for federal intervention to remove the burden of white supremacy off the backs of black southerners.

Freedom Summer, 1964

Mississippi became the focus of the civil rights movement's efforts to spotlight black disenfranchisement and pressure Washington into providing relief. Shortly after the completion of the mock election in the Magnolia State, COFO staff met in Greenville to discuss future plans. The group agreed to launch a concerted voter drive the following summer, directed by Bob Moses and Dave Dennis of CORE, that would build upon its recent freedom ballot operation. The main bone of contention revolved around the issue of whether whites should play a similar role in this campaign as they had in the 1963 project. Most of those in attendance believed that whites should not serve in any leadership capacity, volunteers should be closely supervised by SNCC staff, and whites should work mainly in white communities. The issue of race had become more salient in light of black perceptions that Lowenstein's recruits could not help but act paternalistically toward black folks from a markedly different class and social background from themselves. Some of the staff also believed that placing whites in a leadership position would reinforce the subservience local blacks felt in the presence of whites.

Moses disagreed for philosophical and tactical reasons. To limit white participation was a racist position, he argued, and "that's what we are fighting against." Also, Moses had not given up on the idea that bringing northern whites into Mississippi would convince the Federal government

[173] Fairclough, *Race and Democracy*, 303-06.

[174] Ibid., 309-10.

to follow. He candidly admitted that while the nation did not respond to black deaths in the state, its leaders would pay heed to the violence that would likely be perpetrated against the hundreds of white college students who encountered violence—including murder. Moses, a reader of Albert Camus and other existentialist philosophers, took personal responsibility very seriously and dreaded the lives that would be lost as a result of his actions. However, he was not the source of Mississippi's violence and wanted to show those living outside the Magnolia Curtain the terror that blacks experienced every day.[175] His arguments prevailed.

Before Freedom Summer, COFO continued its efforts to register black voters in a number of key areas in Mississippi. COFO declared January 22, 1964 as "Freedom Day" in Hattiesburg. In *United States v. Lynd*, the Justice Department had won an injunction that prevented Theron Lynd from engaging in discriminatory voter registration practices. The registrar of Forrest County, where Hattiesburg was the county seat, Lynd had long been involved in thwarting African Americans from passing the state literacy test. With this boost from the judiciary, COFO mobilized a few hundred people to line up en masse at the Forrest County Courthouse and apply to register. COFO also threw up a picket line at the courthouse to protest discriminatory treatment. Under the watchful eyes of national reporters summoned by COFO, the local police did not use physical force to break up the demonstration, an unprecedented event in the county. More than 150 people took the test in a generally peaceful atmosphere. The drive encouraged COFO and the local residents to continue organizing. The police waited until the national media departed before making arrests, but they did not stop further attempts to register.[176]

Civil rights activists in the town of Canton in Madison County copied "Freedom Day" after witnessing the events in Hattiesburg. CORE had set up a base in Canton and recruited a local businessman, C. O. Chinn, to work with the group in rallying blacks behind the movement. Madison County had its own Theron Lynd in the person of Foote Campbell, the registrar who had kept a tight grip on the voting books, which contained the names of 97 percent of adult whites but only 1.2 percent of eligible blacks. SNCC and NAACP staff joined those from CORE in turning out some 350 blacks at the courthouse. Only five people were allowed to take the test, and the following week the Justice Department filed suit against Foote for discrimination. The case went to Judge Cox, the judicial obstructionist, who referred publicly to blacks in court as "chimpanzees." Nevertheless, Cox, who had previous decisions reversed by the higher courts, ordered that Campbell handle at least 50 applications a day.[177]

Buoyed by demonstrations in Hattiesburg and Canton, black residents in Greenwood declared their own "Freedom Day" set for March 25. The situation here was less peaceful. The day before the rally, the police arrested SNCC's Willie Peacock and three others for distributing flyers, and the Ku Klux Klan burned a fiery cross in front of SNCC headquarters. After gathering at the Elks Hall, some 200 blacks went to the courthouse to register and another 100, including a few white clergymen, joined a picket line to protest racial bias. About three dozen

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[175] Lawson, *Running for Freedom*, 94.

[176] Dittmer, *Local People*, 220-21; *United States v. Lynd*, 301 F. 2d 818 (1962); *United States v. Lynd*, Manuscript Collection, at http://www.lib.usm.edu/~archives/m027.htm, The University of Southern Mississippi, accessed on April 7, 2009.

[177] Dittmer, *Local People*, 221-23.

were permitted to take the voting test. Freedom Days did stir blacks in Mississippi to make the attempt to register, but few managed to do so in the face of solid opposition.[178]

Against this background, the organizers of Freedom Summer began their campaign. After setting up a recruiting process and carefully screening applicants, in mid-June COFO convened a two-week orientation session at the Western College for Women in Oxford, Ohio to help prepare more than 500 volunteers for the challenges and dangers that awaited them behind the Magnolia Curtain. These mainly white children of privilege listened to somber recitations by civil rights veterans, including project director Bob Moses, about the facts of life in Mississippi, which for blacks resembled a third-world economy and a totalitarian state. Through the drama of role playing, volunteers received training in the abuse they would receive and the nonviolence with which they were expected to respond. They would face grave difficulties, and their lives would be in jeopardy. Jimmy Travis, who had been shot outside Greenwood the year before, warned them: "It's hell in Mississippi. And you got to realize that nobody cares. I'm black. You're white. If you're going down there, you're going to be treated worse than black. Because you are supposed to be free. But I say no one is free until everyone is."[179]

This lesson hit home quickly, even before most of them had left for Mississippi. On June 21, a week after the Oxford orientations had begun, COFO learned that three of its staff in Mississippi had disappeared. Michael Schwerner and James Chaney worked for CORE and Andrew Goodman, one of the summer volunteers from Queens, New York, had gone to investigate the torching of the Mount Zion Methodist Church in Longdale, near Meridian in Neshoba County. Shortly after investigating the ruins, they were arrested on a traffic charge by Deputy Sheriff Cecil Price and placed in jail in the town of Philadelphia. Later that evening, they were released and headed by car back to Meridian. On the way, Deputy Sheriff Price stopped them once again, but this time under cover of darkness turned the trio over to members of the Ku Klux Klan, who murdered them, burned their car, and buried their bodies under a remote earthen dam. Their remains were not discovered until August 4, but by then COFO had no doubt that they had been murdered.[180]

Until then the Federal government had declined to become involved in safeguarding Freedom Summer workers. Although many parents of volunteers along with civil rights organizations had urged Washington to take steps to protect voting rights crusaders, the president and his advisors demurred. Lyndon B. Johnson had succeeded John F. Kennedy after his assassination the previous November. Sympathetic to civil rights, even more so than Kennedy, like his predecessor Johnson believed that federal force should be deployed sparingly in the internal affairs of states. Law enforcement was a matter for local officials to undertake. Yet as Attorney General Robert Kennedy had acknowledged, in Mississippi the police "are widely believed to be linked to extremist anti-Negro activity, or at the very least to tolerate it." Nevertheless, four days before the three civil rights workers disappeared, a White House aide rejected a request from parents of the volunteers for federal protection "before a tragic incident takes place." Lee White

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[178] Ibid., 224.

[179] Nicolaus Mills, *Like a Holy Crusade: Mississippi 1964—The Turning of the Civil Rights Movement in America* (Chicago: Ivan R. Dee, 1992), 92.

[180] For an account of these murders, see Seth Cagin and Philip Dray, *We are not Afraid: The Story of Goodman, Schwerner, and Chaney and the Civil Rights Campaign for Mississippi* (New York: McMillan, 1988), chapter 1.

found it "incredible that those people who are voluntarily sticking their head into the lion's mouth would ask for somebody to come down and shoot the lion."[181]

The disappearance of Chaney, Schwerner, and Goodman generated nationwide and international publicity and forced the Federal government to act. Johnson ordered the FBI to head up an investigation and set up an office in Mississippi to do so. Previously, the FBI had compiled a poor record in dealing with civil rights issues. Both the Justice Department and the bureau's director, J. Edgar Hoover, argued that the FBI did not constitute a national police force that could provide protection for civil rights activists. Its agents on the scene in southern racial hot spots merely recorded their observations and did nothing to intervene when they saw blacks and their white colleagues under assault. In fact, Hoover had a dim view of the capacity of blacks to handle equality, and he had also initiated a clandestine operation to spy on and smear Reverend Martin Luther King, Jr. However, under the president's orders and with the bureau's professional reputation on the line, Hoover's agents conducted a successful probe that led to the apprehension of the killers.[182]

However, the Federal government did not change its position about refusing to provide protection, and throughout the summer violence continued to flare. In Leake County, the tiny town of Harmony—another oxymoron in the state's racial inferno—came under assault for its civil rights activities. Two sisters, Winson and Dovie Hudson, led the movement in this community, as did women in many other towns throughout the South. They collaborated with CORE workers to set up a "Freedom School" in Harmony. These schools were a critical aspect of Freedom Summer, designed to provide an education for black youths that gave them an opportunity to learn the academic skills missing from their limited and impoverished segregated education. The schools would also instill in them a sense of pride in learning about their African American heritage and prepare them to exercise their rights as first-class citizens. However, terrorists aimed to stop this freedom education and began planting bombs in black mailboxes. When a carload of whites drove up to Dovie Hudson's mailbox, she had her sons on alert armed with guns. They riddled the approaching vehicle with bullets, fending off the assault. This incident demonstrated that local blacks would use force to defend themselves, despite the movement's tactical support of nonviolence.[183]

The freedom campaign in McComb, where three years earlier Bob Moses had started his quest to organize blacks for the right to vote, once again became the target of Klan violence and segregationist harassment. A bomb rocked C. C. Bryant's house along with two others the day after the killings outside of Philadelphia. COFO operated a freedom house owned by Mrs. Willie Mae Cotton on Wall Street. Bombers blasted the house, knocking down one of the walls and injuring the project director Curtis Hayes and a white volunteer. The reign of terror continued throughout June and July as the Klan torched three churches in adjacent Pike and Amite Counties. In early August, black business leaders gathered at Aylene Quinn's café, which

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[181] Lawson, *Black Ballots*, both quotes on 302.

[182] David J. Garrow, *The FBI and Martin Luther King, Jr.: From "Solo" to Memphis* (New York: W. W. Norton, 1981), passim; Kenneth O'Reilly, *"Racial Matters": The FBI's Secret File on Black America, 1960-1972* (New York: Free Press, 1989), passim. In 1967 an all-white federal jury convicted Deputy Price and six Klansmen of the killings.

[183] Dittmer, *Local People*, 256-57; Winson Hudson and Constance Curry, *Mississippi Harmony: Memoirs of a Freedom Fighter* (New York: Palgrave Macmillan, 2002), 35-46.

served as a haven for beleaguered COFO staff. They agreed to support the local movement and began holding meetings at St. Paul's Methodist Church. The effort to register blacks continued despite ongoing intimidation and bombings—six over two months.[184]

The Mississippi Freedom Democratic Party Challenge

In addition to voter registration and freedom schools, the summer project assisted in establishing the Mississippi Freedom Democratic Party (MFDP). This party was set up to protest the exclusion of blacks from the regular state Democratic Party and its procedure for choosing delegates to attend the Democratic National Convention. The MFDP erected a parallel structure open to blacks as well as white Mississippians. Like the regular party, the group held precinct, county, and state conventions to select representatives to attend the 1964 Democratic presidential nominating convention in Atlantic City, New Jersey.

To win its case, first the MFDP had to prove that blacks were systematically barred from the official deliberations of the state Democratic Party. To show this, Afro-Mississippians tried to participate in the nearly 1,900 precinct meetings the regular Democrats held throughout the state. Very few gained entry either at the precinct or county levels. No blacks attended the state convention, and the delegation chosen as a result of this process was lily-white. In addition, most of the white delegates did not support Lyndon Johnson or the views of the national Democratic Party. Reportedly they intended to vote for the conservative Republican candidate, Barry Goldwater.

In late July, the MFDP began to convene its precinct meetings, and on August 6 some 2,500 delegates gathered at the state party convention at the Masonic Temple in Jackson. The "godmother" of SNCC, Ella Baker believed in community organizing and faith in the power of local people to choose their own leaders. At the Masonic Temple, she urged blacks to educate themselves about their citizenship rights and once they cast their ballots to be vigilant about electing people who "feel their sense of importance and will represent themselves before they represent you."[185] With this reference Baker was already thinking beyond obtaining the franchise to the need to choose representatives who would advance the liberationist goals of the black freedom struggle. She especially had in mind the economic objective of equal opportunity and a decent standard of living.

The 68-member MFDP delegation, which included four whites (and 34 alternates), journeyed to the convention feeling good about its chances of replacing the regulars. The group stayed at the Gem Motel, about a mile from the convention center. Its members did not know that President Johnson was monitoring their conversations. The FBI had undertaken extensive surveillance, including wiretaps and the use of informers, to keep track of the MFDP's moves. The president did not want the MFDP to provoke an all-out credentials fight that would threaten his white southern support.[186]

The MFDP's lawyer, Joseph Rauh, a veteran liberal attorney and counsel to the United Auto Workers, outlined a strategy that gave the Freedom Democrats two chances of gaining

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[184] Dittmer, *Local People*, 267-71; David Harris, *Dreams Die Hard: Three Men's Journey through the Sixties* (New York: St. Martin's/Marek, 1982), 61-68.

[185] Dittmer, *Local People*, 281-82; Ransby, *Ella Baker*, 330-42.

[186] Dittmer, *Local People,* 285, 291-92.

recognition. First, they would present their case to the Credentials Committee, where they had to convince only 11 of the 108 representatives to send their challenge to the floor of the convention. Once there, the MFDP needed the support of just eight state delegations to force a roll-call vote on the question of their seating. Second, if they managed to get this far, the challengers believed that with the media televising the proceedings throughout the nation, they could line up enough delegations on their side and win their case. Indeed, the MFDP already counted California, Michigan, and New York in its column.[187]

On August 22, the Credentials Committee heard testimony from both sides in the dispute. The regulars argued that they had duly chosen convention delegates according to longstanding Democratic Party rules. The challengers asserted that the regular Democrats had barred blacks from participating in their selection process. The most riveting evidence came from a leading member of the MFDP delegation, Mrs. Fannie Lou Hamer. From Sunflower County, the home of Senator James Eastland, in 1962 Hamer had been fired from her job as timekeeper on a plantation and evicted because she had attempted to register to vote. She became a staff member of SNCC and an inspiration to the young women and men who took part in COFO organizing. With television cameras recording her testimony, Hamer painted a graphic and painful picture of how Mississippi treated blacks who sought first-class citizenship. Hamer recounted an arrest, humiliating interrogation, and beating that she and five others had experienced in the Winona, Mississippi jail. Given the indignities that blacks suffered merely trying to register to vote, Hamer looked at the committee members and the television audience that attentively watched the proceedings and asserted: "If the Freedom Party is not seated now, I question America." How could the nation built on republican principles tolerate the absence of democracy in Mississippi? "Is this America," she asked, "the land of the free and home of the brave, where we have to sleep with our telephones off the hooks because our lives be threatened daily, because we want to live as decent human beings, in America?"[188]

Mrs. Hamer's emotional account appeared to hit the mark. So much so that it galvanized President Johnson into action. Johnson feared that the battle over Mississippi would tear the convention apart and, if the MFDP won its challenge, provoke a walkout by white southern delegations, something reminiscent of the scene at the 1948 Democratic Convention. To reassert control over the course of deliberations, Johnson called an impromptu press conference while Hamer was speaking to preempt live coverage before the national television audience. The president achieved only temporary success, because television cameras continued to record her testimony while Johnson held his conference, and the networks replayed Hamer's testimony on their evening news broadcasts.[189]

The president did not intend to be outmaneuvered. Seeking to confine the fight to the Credentials Committee and keep the matter from reaching the convention floor, he orchestrated a compromise. He let the liberals on the committee know that if they wanted him to select Hubert Humphrey as his running mate, they had to find a way to broker a deal. Humphrey supporters, Walter Mondale of Minnesota and Walter Reuther, the head of the United Automobile Workers,

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[187] Juan Williams, *Eyes on the Prize: America's Civil Rights Years, 1954-1965* (New York: Viking, 1987), 241; Dittmer, *Local People*, 287.

[188] Dittmer, *Local People*, 288; Kay Mills, *This Little Light of Mine: The Life of Fannie Lou Hamer* (New York: Dutton, 1993), 119-20.

[189] Dittmer, *Local People*, 288.

operated behind-the-scenes to convince the delegates to seat the Mississippi regulars, provided they swore their allegiance to the national Democratic Party, and to extend two at-large seats to the MFDP, leaving nearly all the freedom delegates excluded from participation. With Johnson's approval, the agreement named Aaron Henry and Ed King as the two delegates; the president deliberately wanted to keep the spellbinding Hamer from gaining formal recognition. This solution pleased neither side. Most of the Mississippi regulars walked out, refusing to take the loyalty oath. At the same time, after a series of caucuses at the Union Temple Baptist Church, the MFDP members rejected the "back of the bus bargain," as they termed it. In her powerful voice, Hamer declared: "We didn't come all this way for no two seats."[190] Yet the MFDP did not go away empty handed. The convention voted to establish a committee to draw up guidelines to eliminate racial discrimination in delegate selection to the 1968 and succeeding national conventions. (Indeed, Hamer would take a seat at that convention in a delegation of 36 blacks and 32 whites.[191])

Nor did the MFDP give up. As an outgrowth of the summer project, the party had run candidates for Congress. Besides Hamer, Annie Devine and Victoria Gray competed for seats in the House of Representatives. The three underscored the importance of local women to the movement. Devine, a mother of four, a pillar of her church, and a schoolteacher, had emerged out of organizing drives in Canton. A resident of Hattiesburg, Gray shared a similar profile as a wife and mother, though in her case she came from a business background to work with COFO. Unlike the situation at the Democratic convention, the three candidates had a weak legal position and little political support to win their challenge for seats in Congress. At best, they may have hoped to block the seating of the regularly elected white congressmen, as had occurred with respect to Bilbo in 1947. However, at the new session of the Eighty-ninth Congress opening in January 1965, the House overwhelmingly rejected their attempt.[192]

Civil Rights Act of 1964

While the MFDP highlighted the terror of southern disenfranchisement, the president and Congress adopted a voting measure that did little to solve the problem. Although the Civil Rights Act of 1964 produced strong and effective provisions in undermining segregation in public accommodations and schools as well as discrimination in employment, it fell short of extending the right to vote to African Americans. The law contained the proposal first offered by President Kennedy in 1962 to accept evidence of a sixth-grade education as proof of literacy to satisfy voter registration qualifications. The statute still left implementation in the hands of the judiciary, which had proven a cumbersome and time-consuming method in the past. Furthermore, the law basically retained the use of literacy as a standard for registering, and even an objective one as the measure provided left a large number of blacks who had been deprived of adequate education disenfranchised. At the same time, the large number of whites who did not have either a sixth-grade education or more literacy than blacks remained on the rolls because registrars had given them preferential treatment.[193]

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[190] Ibid., 298, 302.

[191] Steven F. Lawson, *In Pursuit of Power: Southern Black and Electoral Politics, 1965-1982* (New York: Columbia University Press, 1985), 114.

[192] Lawson, *Black Ballots*, 323-26.

[193] Lawson, *Running for Freedom*, 95.

Nevertheless, a few federal judges in the South had departed from their obstructionist colleagues to take an active role in devising novel legal methods of promoting black voting rights. Frank M. Johnson of Alabama helped pioneer the way. Johnson had struck down bus segregation in Montgomery in 1956, and by the early 1960s had a good deal of experience trying to get local registration boards to comply with the Civil Rights Acts of 1957 and 1960. Often frustrated by delays and subterfuges, in 1962 Judge Johnson decided to tackle the continuing discriminatory application of literacy tests head on. Because so many whites had not been required to satisfy the literacy exams, Johnson "froze" the requirements to vote that were then in effect and that allowed whites to register. In practice this meant that blacks would only have to meet the same criteria—which in this case meant no proof of literacy—to enroll to vote. This principle of freezing recognized the realities of the differential treatment of the races in the South and provided a rationale to justify suspending the administration of literacy tests. In March 1965, in *Louisiana v. United States*, the Supreme Court upheld freezing of voting standards as a constitutional method of correcting past bias against blacks, thereby suspending the application of literacy tests. Justice Hugo Black stated what southern blacks had long known about literacy exams: "This is not a test but a trap, sufficient to stop even the most brilliant man on his way to the voting booth."[194]

The Tuskegee Breakthrough

As Congress and the courts added voting rights remedies to the federal arsenal and civil rights activists in Mississippi demonstrated the need for much stronger measures to crush disenfranchisement, in one historic town black southerners cracked through the solid edifice of white supremacy. Despite biased voter registration schemes and racial redistricting, Dr. Charles Gomillion had persevered in his struggle for black political equality. In the summer of 1964, the Macon County Democratic Club, an offshoot of the Tuskegee Civic Association, backed an interracial slate of candidates for city elections. Blacks constituted slightly less than a majority of Tuskegee's electorate of 1,900 voters, and both ideology and pragmatism convinced Gomillion and the Democratic Club of the need for a black-white coalition. The club endorsed three whites and two blacks for city council. In the August 11 election, the three whites won their races to the council, and the two blacks faced a runoff against white candidates. On September 15, the two black candidates, Kenneth L. Buford and Stanley Smith, became the first non-whites elected to the city council. At its initial meeting the new council resolved: "We shall work for a community composed of citizens whose hearts are united in brotherly love."[195]

Prelude to the Future

While judges, lawmakers, and civil rights groups pressed their case for expanded voting rights, some southern states began to realize the inevitable and made plans to defend white political supremacy once African Americans obtained the ballot. They would have to accept black voter registration one day, but they could also shift their focus from denying blacks the vote to

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[194] Fairclough, *Race and Democracy*, 310. The Court affirmed the lower court decision issued by Judge John Minor Wisdom, another of the handful of progressive federal district judges in the South, along with Frank Johnson and Skelly Wright, who ruled against discriminatory suffrage procedures. Bass, *Unlikely Heroes*, 46-51; Lawson, *Black Ballots,* 268, 313; *Louisiana v. United States,* 380 U.S. 145 (1965).

[195] Norrell, *Reaping the Whirlwind*, 167.

reducing the influence blacks exerted over the outcome of elections. Drawn up to appear impartial on the surface, these electoral measures packed racial motives behind them.

Georgia offers a case in point. In 1962, federal courts had struck a blow against Georgia's unique county unit system. The county unit system had laid the foundation for maintaining rural domination of the state legislature and restricting black political influence in the electorate. Valdimer Orlando (V. O.) Key, the foremost student of southern politics, noted that under the county unit system it "becomes possible to use the cities as whipping boys, to inflate rural pride and prejudice, including that against Negroes who vote most frequently in the cities, and to perpetuate the frictions between county and city."[196]

Codified in the Neill Primary Act of 1917, the rules gave each of Georgia's 159 counties twice as many unit votes as it had representatives in the lower state house. The eight most populous counties each had three representatives and six unit votes a piece; the next 30 had two each and four unit votes; and the remaining 121 had one each and two unit votes. The 121 counties containing a minority of the population controlled nearly 60 percent of the unit votes. Nominations for governor and U.S. senator required a majority of unit votes, while those for secretary of state, attorney general, and judges on the Supreme Court and Court of Appeals needed merely a plurality. In no instance was a majority of the popular vote necessary for victory.[197]

The county unit system proved constitutionally indefensible. In the spring of 1962, a three-judge federal panel in *Gray v. Sanders* rejected it for violating the Equal Protection Clause of the Fourteenth Amendment by weighing votes cast in small rural counties more heavily than those in large urban jurisdictions. The next year the U.S. Supreme Court concurred.[198] In two cases, *Toombs v. Fortson* and *Westberry v. Sanders*, the judiciary also ordered Georgia to reapportion its state legislature so that legislative districts reflected boundaries of roughly equal populations.[199] This would remove the advantage that rural areas had over urban centers.

With the demise of the county unit system, Georgia politicians looked for other ways to preserve white power. In 1963, state representative Denmark Groover from Macon introduced a proposal to apply majority-vote, runoff election rules to all local, state, and federal offices. A staunch segregationist, Groover's hostility to black voting was reinforced by personal experience. Having served as a state representative in the early 1950s, Groover was defeated for election to the House in 1958. The Macon politico blamed his loss on "Negro bloc voting." He carried the white vote, but his opponent triumphed by garnering black ballots by a five-to-one margin.[200]

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[196] Key, *Southern Politics*, 122.

[197] Ibid., 119-20. The method of nomination for congressional representatives, whether by county unit or not, was left to local option.

[198] *Gray v. Sanders*, 203 F. Supp. 158 (N.D. Ga 1962), 372 U.S. 368 (1963).

[199] *Toombs v. Fortson*, 205 F. Supp. 248 (N.D. Ga. 1962); *Westberry v. Sanders*, 376 U.S. 1 (1964).

[200] *Macon Telegraph*, September 11, 1958, 1. This story is also told in J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina Press, 1999), chapter 4.

Groover soon devised a way to challenge growing black political strength. Elected to the House again in 1962, he led the fight to enact a majority vote, runoff rule for all county and state contests in both primary and general elections. Until 1963, plurality voting was widely used in Georgia county elections, and the decision on whether to have a majority or plurality was left to the option of each local party executive committee throughout the state.[201]

Why did Groover propose this significant alteration in January 1963? Two decades after introducing the majority vote plan, he candidly admitted that back in the 1950s and 1960s, "I was a segregationist. I was a county unit man. But if you want to establish if I was racially prejudiced, I was. If you want to establish that some of my political activity was racially motivated, it was."[202] At the time of the legislative debate in February 1963, it was extensively reported in the state's newspapers that Groover and his allies saw the measure "as a means of circumventing what is called the Negro bloc vote."[203] Groover later confirmed that he used the phrase "bloc voting" as a racist euphemism for Negro voting and that he specifically aimed his proposal at black leaders whom he believed secretly collaborated with white politicians to affect the outcome of elections.[204] Representative James Mackay from DeKalb County, a supporter of the majority-vote bill, remembered Groover saying on the House floor: "[W]e have got to go to the majority vote because all we have to have is a plurality and the Negroes and the pressure groups and special interests are going to manipulate this State and take charge if we don't go for the majority vote."[205]

Moreover, the timing of the Groover bill was connected to the abolition of the county unit system. The Associated Press reported Groover as declaring that a majority vote provision "would again provide protection which . . . was removed with the death of the county unit system," meaning that it would prevent African Americans from exercising electoral control.[206] In fact, Groover understood the political value in closely linking his bill with the defunct county unit system. He remembered a colloquy with a fellow member of the Bibb County delegation, an opponent on this issue, this way: "'Is it true that the affection of the gentleman from Bibb,' referring to me, 'for the majority vote came about as a result of the demise of the county unit system?' Well, when he said that, I knew I was in the game, because most of the people in that House were in favor of the county unit system."[207]

Groover's position prevailed in the House, and on February 20, 1963, the bill passed 133-41. Having passed the House by a three-to-one margin, the Groover measure stalled in the Senate. Lawmakers declined to vote on the bill apparently because they preferred to wait for a recently created ELSC to consider Groover's proposal as part of its overall deliberations during the

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[201] *Valdosta Daily Times*, February 21, 1963, 1.

[202] Denmark Groover, Deposition, April 23, 1984, *United States v. Lowndes County, Georgia*, CA No. 83-108-VAL, 22.

[203] *Moultrie Observer*, February 21, 1963, 2; *Valdosta Daily Times*, February 21, 1963, 1; *Macon Telegraph*, February 21, 1963, 1.

[204] Groover Deposition, 19, 25-26, 51-52.

[205] "Trial Transcript," *Georgia v. Reno*, CA No. 90-2065, October 12, 1964, 514.

[206] *Moultrie Observer*, February 21, 1963, 2; *Valdosta Daily Times*, February 21, 1963, 4.

[207] Groover Deposition, 30. Groover denied in his deposition that the county unit ruling and the subsequent legislative reapportionment had anything to do with his introducing the plan, 62.

coming year. Groover later reflected on the fate of his bill: "I think it was fairly well understood at the time that it would wait for the election code."[208]

Created by the General Assembly on April 12, 1963, the ELSC revived Groover's majority-vote, runoff election idea. On September 11, Governor Carl Sanders, a moderate segregationist, spoke out for majority voting. Although not a political ally of Groover's and more racially moderate than the state representative, the governor had supported the county unit system and at-large election procedures that diluted the impact of the black vote. With Sanders firmly behind the plan, on October 15, the ELSC recommended passage of a majority-vote rule. This plan was conceived and endorsed at a time when Georgia was in the throes of great racial change fueled by the civil rights movement and the Federal government. The twin supports for the edifice of racial segregation in the state—the county unit system and legislative malapportionment—were collapsing under the weight of court decrees. Furthermore, Congress was considering the most comprehensive civil rights legislation since the end of Reconstruction (what became the 1964 Civil Rights Act) and the Justice Department was stepping up enforcement of voting rights laws already on the books.

The following year, the majority vote, runoff election measure became law as part of the state election code package. On June 22, 1964, the Senate voted 47 to 0 and the House 150 to 37 in favor of the revised election statute.[209] Contemporary public debate of the issue centered around the belief that continued operation of plurality voting would increase black political opportunities and influence. This concern heightened as the Federal government, more actively than it had in the past, pursued the enfranchisement of African Americans in the South. Support for the majority-vote plan reinforced the moderate segregationist position. It did not remove anyone's right to cast a ballot, but it was commonly regarded as hampering African Americans—the stigmatized bloc voters—from making their votes count more effectively at the polls. In similar fashion, especially following passage of the 1965 Voting Rights Act, southern white politicians devised electoral techniques to offset the rising power of black ballots.

Selma, Alabama

Events in Georgia presaged the future, but the reality for most southern blacks in 1965 was that they still could not vote. In the South, 57 percent of eligible African Americans remained unregistered. The situation was worse in Alabama and Mississippi, where respectively 23 and 6.7 percent of blacks could vote.[210] With Mississippi already covered with suffrage campaigns by COFO, in January 1965, Reverend Martin Luther King, Jr. and the SCLC moved into Selma, Alabama to highlight the obstacles blacks faced in seeking to register. King's efforts depended on generating the same kind of national publicity to prompt federal action as COFO had garnered during Freedom Summer.

King entered territory that SNCC had already explored. In 1963, SNCC sent field workers to Selma to organize local blacks with mixed success. On October 7, 1963, the group held a "Freedom Day," which mobilized some 300 blacks to line up at the courthouse seeking to register. Instead they were greeted by Sheriff Jim Clark's police force, which arrested

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[208] Ibid., 39. See comments of Senator John Gayner of Brunswick, *Atlanta Constitution*, March 1, 1963, 20.

[209] *Senate Journal*, June 22, 1964, 744; *House Journal*, June 22, 1964, 1086-88.

[210] Lawson, *Running for Freedom*, 81.

demonstrators and treated them roughly, while FBI agents nearby characteristically watched the harassment without intervening.[211] SNCC's efforts did not produce many black voters, but they did facilitate the creation of the Dallas County Voters League, which continued the struggle. The Reverend Frederick Reese, a high school teacher and Baptist clergyman, headed the association. Assisting him was Amelia P. Boynton, an independent businesswoman who along with her husband Samuel operated an employment and insurance agency. They provided SNCC with the use of their office on Franklin Street and opened up their home to civil rights organizers as a place they could stay. Also, the First Baptist Church in Selma provided space for the Voters League and SNCC to conduct meetings and voter registration classes. The Voters League sparred with local officials to enroll blacks, but by 1965 fewer than 400 African Americans had signed up to vote in Dallas County where Selma was located.[212]

Faced with the unwavering hostility of local authorities and the unwillingness of the Federal government to offer protection, the Voters League invited King to launch a registration campaign in Selma. Fresh from having won the Nobel Peace Prize, King agreed. On January 2, 1965, the SCLC chief addressed a mass meeting at Brown's Chapel African Methodist Episcopal Church, which became the center of the Selma Movement. Doubtful that he would receive any better treatment from local officials than his predecessors, the Nobel Laureate expressed his real objective in staging protests in Selma: "We will seek to arouse the federal government by marching thousands [to] the places of registration."[213]

Across from Brown's Chapel, residents of the George Washington Carver Homes, a two-story apartment project built for black Selmans in 1951, assisted the movement. They put up civil rights volunteers from outside the city and joined in protests and mass meeting at the nearby church. The SCLC used the surrounding area between the church and Carver buildings "as a training ground for nonviolent protests."[214]

King's presence attracted national press coverage, which had been missing from earlier drives. Selma had a public safety director, Wilson Baker, who believed that the best way to defuse the publicity King generated was to have law enforcement act with restraint. When King and the SCLC launched their campaign on January 18, Baker maintained a peaceful police presence. Not so the deputy sheriffs under the command of Jim Clark. On January 19, Sheriff Clark's men halted a march to the Dallas County Courthouse, and Clark himself accosted Mrs. Boynton, treated her roughly, and arrested her. Boynton's arrest spurred other blacks to protest, most dramatically the town's teachers who, except for Reese, had previously refrained from bold action. Each attempt to register, however, proved fruitless.[215]

Despite passage of the 1964 Civil Rights Act outlawing segregation in public accommodations, hotels in Selma remained segregated. The Torch Motel, located at 1802 Vine Street, was one of

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[211] Lawson, *Black Ballots*, 278, 282; J. L. Chestnut, Jr. and Julia Cass, *Black in Selma: The Uncommon Life of J. L. Chestnut, Jr.* (New York: Farrar, Straus and Giroux, 1990), 204-16.

[212] Lawson, *Running for Freedom*, 105; Garrow, *Protest at Selma*, 31; Ralph E. Luker, *Historical Dictionary of the Civil Rights Movement* (Lanham, MD: Scarecrow Press, Inc., 1997), 115.

[213] Williams, *Eyes on the Prize*, 258.

[214] Davis, *Weary Feet*, 105.

[215] Ibid., 259-61.

two facilities that served blacks, and King and his SCLC lieutenants took shelter in its $5 a day rooms. Annie Lee Cooper, a 53-year-old nurse who had been fired from her previous job at the Dunn Rest Home for engaging in voter registration activities, managed the facility. During attempts to register voters in January, Mrs. Cooper and Sheriff Clark got into a fist fight at the county courthouse, when the sheriff pushed her while she stood on line. Despite the strictures of nonviolent protest, Cooper punched him in the face several times. As deputies grabbed her, she brazenly yelled at Clark: "I wish you would hit me, you scum." Clark then whacked Cooper over the head with his club, an image that photographers captured for the national media.[216]

With the efforts of the demonstrators stalemated, King stepped up the campaign on February 1. After rallying demonstrators at Brown's Chapel, he led a march to the courthouse. Before arriving there he was arrested, not by Clark but by the gentler Baker. However, the result was the same, and King went to jail. From his cell, he penned the "Letter from a Selma Jail," in which he wrote sarcastically: "This is Selma, Alabama, where there are more Negroes in jail with me than there are on the voting rolls."[217] His incarceration prompted further marches and arrests, including those of nearly 1,000 schoolchildren. With the jails overflowing and the national press recording the arrests, the demonstrations attracted national attention. A delegation of 15 congressmen traveled to Selma to see the situation firsthand, and on February 4 the black nationalist Malcolm X spoke at Brown's Chapel and warned that "white people should thank Dr. King for holding people in check, for there are other [black leaders] who do not believe in these [nonviolent] measures."[218] While local whites did not appreciate the implications of Malcolm's remarks, President Johnson did. On February 4, the chief executive informed the nation that he intended to assure that the right to vote was secured for black Alabamians. Johnson meant to keep his word.

Following additional confrontations with Sheriff Clark's troops, on February 18, SCLC leaders, led by the Reverend Cordy Tindnell (C. T.) Vivian, conducted a night march in the town of Marion in neighboring Perry County, where blacks were similarly without the franchise. The protest resulted in the killing of Jimmie Lee Jackson by state troopers and the indiscriminate beatings of protesters and news reporters. With national sympathy building, the SCLC came up with a dramatic way of highlighting the plight of Alabama blacks. The group proposed a march from Selma to the state capitol in Montgomery, a distance of 50 miles, to memorialize Jackson's death and voice black grievances at the doorstep of Governor George C. Wallace, the segregationist firebrand. On Sunday, March 7, demonstrators gathered at Brown's Chapel before undertaking the dangerous journey along Route 80, a demonstration that Wallace had already denounced and threatened to block as a public safety hazard. Led by the SCLC's Hosea Williams (King was out of town tending to his church duties in Atlanta) and SNCC's John Lewis, some 600 people marched two abreast to the Edmund Pettus Bridge, which crossed the Alabama River out of town. As the marchers reached the crest of the bridge, they encountered Wallace's state troopers and Clark's deputies who ordered them to turn back. Before they had a chance to comply, the combined police forces, some on horseback, charged into their ranks, fired

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[216] David J. Garrow, *Bearing the Cross: Martin Luther King, Jr., and the Southern Christian Leadership Conference* (New York: William Morrow & Co., 1986), 381; Davis, *Weary Feet*, 113-14; Williams, *Eyes on the Prize*, 260.

[217] Williams, *Eyes on the Prize*, 264.

[218] Ibid., 262.

tear gas, routed the protesters, and sent them sprawling. They rushed to get back to Selma and the confines of Brown's Chapel.[219]

The brutality on the bridge had whet the appetite of Clark and his deputies for more. About 150 policemen chased the fleeing demonstrators, many of them wounded and choking from tear gas back to the church sanctuary. Enraged residents of the Carver Homes abandoned nonviolence and hurled bricks and bottles at the troopers. An injured John Lewis, who was severely beaten at the bridge and carried back to Brown's, recalled the havoc caused by the police outside the church: "I was inside . . . , which was awash with sounds of groaning and weeping. And singing and crying. Mothers shouting out for their children. Children screaming for their mothers, brothers and sisters. So much confusion and fear and anger all erupting at the same time."[220] Volunteer nurses and doctors treated the wounded in Brown's parsonage next door, which according to Lewis looked like "a MASH [Mobile Army Surgical Hospital] unit." They treated victims for cuts and bruises and tear gas burns. Ambulances dispatched from black funeral homes transported some of the more seriously wounded to Good Samaritan Hospital. Established by white Catholics and staffed mainly by black medical personnel, this facility was the largest serving African Americans. With more than 90 people needing treatment and examining rooms overflowing, some patients were taken to the smaller Birwell Infirmary.[221]

Network news cameras recorded the events of "Bloody Sunday," and the American Broadcasting Company interrupted its evening broadcast of the movie "Judgment at Nuremberg," providing a vivid juxtaposition of racial crimes in Nazi Germany and white supremacist Alabama.[222] King and the SCLC immediately planned to undertake a second march from Selma to Montgomery scheduled to begin on March 9. However, Judge Frank M. Johnson issued a temporary injunction to halt the march pending an appeal. King chose to go ahead anyway, and on Tuesday, along with 1,500 marchers, headed across the Edmund Pettus Bridge. Once again, they encountered state troopers, but this time violence was averted when King decided to turn around. Behind the scenes, the Federal government had brokered a compromise that allowed marchers time to kneel in prayer and kept the state police from charging into them. Nevertheless, on the evening of "Turnaround Tuesday," two white Unitarian ministers who had journeyed to Selma to participate in the march, were attacked by white thugs on the streets of Selma. One of them, the Reverend James Reeb, died from his beating. The list of martyrs now numbered two.

The nation's response to Reeb's murder evoked bittersweet feelings among civil rights activists. Once again it appeared that political leaders responded more vigorously to the death of white than black martyrs. Following Jimmie Lee Jackson's death earlier in the campaign, despite both television and newspaper coverage, neither the president nor Congress stirred into action. However, Reeb's murder prompted President Johnson to place a personal telephone call of sympathy to the slain minister's wife and father. In addition, nearly a score of congressmen spoke out on the House and Senate floors demanding swift consideration of voting rights

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[219] Lawson, *Running for Freedom*, 106-09.

[220] John Lewis with Michael D'Orso, *Walking with the Wind: A Memoir of the Movement* (New York: Simon & Schuster, 1998), 329.

[221] Ibid., 330.

[222] Ibid., 331.

legislation.[223] Among civil rights workers, the satisfaction of seeing the Federal government respond favorably to increased pressure was mitigated by the belief that the nation viewed white lives as more valuable than black lives.

In the meantime, protests in Alabama reached a climax. After holding hearings, Judge Johnson lifted the ban on the Selma to Montgomery march. When Wallace declined to furnish state protection, President Johnson federalized the Alabama National Guard and dispatched army troops, FBI agents, and federal marshals to provide security. On Sunday, March 21, 4,000 blacks and whites from all over the country, the largest crowd to date, assembled at Brown's Chapel to begin the pilgrimage to Montgomery. With King and other civil rights notables up front, the marchers tramped along the Jefferson Davis Highway (Route 80) this time with their way clear. For four nights marchers camped along the route. The final evening before heading into Montgomery, a huge throng gathered at the unincorporated City of St. Jude, a Catholic complex that since 1938 had provided housing, medical facilities, and education for black residents of west Montgomery. In what Townsend Davis called the "Movement's Woodstock," thousands crowded into a muddy field for an evening concert and heard Sammy Davis, Jr.; Harry Belafonte; and Joan Baez sing and James Baldwin speak.[224]

The next day some 25,000 people had joined the protest as it reached the state capitol with the Confederate flag waving in the breeze and Governor Wallace inside the building. Television cameras recorded the triumphant procession, and the audience heard King deliver a typically stirring address. Acknowledging that the black pilgrimage to freedom was not yet over, the minister pledged: "We are still in for a season of suffering. However difficult the moment, however frustrating the hour, it will not be long, because truth crushed to earth will rise again."[225] King's words proved prophetic. The day of the march's culmination, a carload of Klansmen about half way along Route 80 near Lowndesboro shot into a car driven by a white volunteer from Detroit, Viola Liuzzo, as she was riding with Leroy Moton, a black SCLC volunteer, to Montgomery after shuttling marchers back to Selma. As the automobile carrying the civil rights workers careened off the road, Mrs. Liuzzo lay dead and Moton survived but feigned death until the killers roared off in their automobile. The number of martyrs had grown to three.[226]

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[223] Garrow, *Protest at Selma*, 95-97.

[224] Davis, *Weary Feet*, 50-51.

[225] Williams, *Eyes on the Prize*, 283.

[226] Mary Stanton, *From Selma to Sorrow: The Life and Death of Viola Liuzzo* (Athens: University of Georgia Press, 1998), passim. Davis, *Weary Feet*, 119-20. Before the end of the year, there would be one more death associated with the Selma campaign. Following the march to Montgomery, a white Unitarian minister, Jon Daniels, was headed to neighboring Lowndes County to organize black voter registrants. He worked closely with SNCC's Stokely Carmichael. Daniels was murdered in broad daylight and a companion seriously wounded in front of Varner's Cash Store in Haynesville. Daniel's killer was acquitted by an all-white jury. In the following year, local blacks led by John Hewlett, formed the Lowndes County Freedom Organization and created an independent party under the insignia of the Black Panther. Badly disillusioned by his experiences in the South, Carmichael would become chairman of SNCC and lead it along the path of Black Power. Anti-racist black militants in Oakland, California would organize themselves into the Black Panther Party, appropriating the name from the Lowndes civil rights activists. Charles W. Eagles, *Outside Agitator: Jon Daniels and the Civil Rights Movement in Alabama* (Chapel Hill: University of North Carolina Press, 1993), passim; Davis, *Weary Feet*, 125-26.

The 1965 Voting Rights Act

Events in Selma accelerated the timetable for voting rights legislation. Following his election in 1964, President Johnson had given thought to and made some preparations for introducing a suffrage plan to combat remaining obstacles to voting. The bloody conflict in Selma did not cause the chief executive to initiate legislation, but it did shape the outline of the proposal and guaranteed that the Johnson White House and its congressional allies would fight for it vigorously. About the same time as King took charge of the Selma demonstrations, Johnson promised in his state of the union address to "eliminate every remaining obstacle to the right and opportunity to vote."[227]

Originally, Johnson preferred not to press for new legislation in 1965 in order to allow the Federal government to spend time implementing the provisions of the 1964 Civil Rights Act. Nevertheless, Johnson, the crafty legislative wizard, had the Justice Department design several options concerning the suffrage should he change his mind. Attorney General Nicholas Katzenbach, who had replaced Robert Kennedy, produced three: a constitutional amendment providing for universal suffrage; a bill creating a national commission to supervise registration in federal elections; and a proposal to authorize a federal agency to conduct registration in state and federal elections in areas where the proportion of blacks registered to vote was low. At this early stage, Katzenbach preferred either the first or second suggestion.[228]

The Selma demonstrations narrowed the options and forced Johnson's hand. Throughout January and February, the president monitored events in Alabama closely, and held meetings at the White House with King, who explained that the problems were serious enough to warrant more immediate and extensive legislation than a constitutional amendment. Johnson agreed, and the Justice Department began drafting a bill that suspended literacy tests in state and federal elections where the percentage of blacks registered for the franchise fell below a prescribed level. After Bloody Sunday and Governor Wallace's continued intransigence against safeguarding peaceful black demonstrators, Johnson proposed legislation to crush suffrage discrimination. In a momentous televised address to a joint session of Congress on March 15, the president announced that keeping blacks from voting was "wrong—deadly wrong," and voicing the battle cry of the civil rights movement he pledged: "We shall overcome."[229]

He meant what he said. His administration introduced the measure it had been crafting for several months. Departing from reliance on cumbersome court procedures, Johnson's voting rights bill shifted enforcement to the Justice Department. It also targeted the states where blacks encountered the most resistance in registering. The bill triggered coverage in states and counties that used a literacy test and where less than 50 percent of the population had registered or gone to the polls in the 1964 presidential election. Under this formula, the bill applied to Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and parts of North Carolina. Literacy tests would be suspended in each of these states, the president could send federal examiners to sign up voters in any of the counties therein, and none of these states could change their suffrage

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[227] Lawson, *Running for Freedom*, 103.

[228] Lawson, *Black Ballots*, 307; Garrow, *Protest at Selma*, 36-41.

[229] Lawson, *Black Ballots,* 312; *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965* (Washington, DC: Government Printing Office, 1966), 281-87.

regulations for five years without the permission of the Justice Department or the federal court of appeals in Washington, D.C.

Unlike the 1964 Civil Rights Act, which had met with such fierce opposition from southerners in Congress that deliberations dragged on for nearly a year before the bill passed, the voting rights legislation encountered only mild resistance. The vivid media coverage of black suffering in Selma had galvanized national sentiment in support of black enfranchisement. A Gallup Poll taken during the Selma to Montgomery march indicated that three-quarters of the American public favored voting rights legislation, and nearly 50 percent of southerners did as well. Furthermore, President Johnson's electoral landslide in 1964 had swept into the Eighty-ninth Congress an increased Democratic majority with a decidedly liberal cast. Given the situation, southern lawmakers could scarcely defend restricting the right to vote and concentrated instead on weakening coverage of the bill. They argued for removing the statistical formula that ensnared seven southern states almost exclusively.[230] Yet they waged only a half-hearted fight because suffrage legislation had generated widespread support. Richard Russell, the dean of southern senators whose physical strength was diminished because of illness, recognized that his legislative clout on this issue was also weak. "If there is any thing I could do," Russell lamented, "I would do it, but I assume the die is cast."[231]

With passage assured, the legislative debate concentrated on details. First, liberals, spearheaded by Democratic Senator Edward Kennedy of Massachusetts, complained that the administration had not addressed the issue of removing the poll tax requirement in state elections, as the ratification of the Twenty-fourth Amendment in 1964 had eliminated the tax in federal elections. At this time, only Alabama, Mississippi, Texas, and Virginia imposed a poll tax.[232] However, under the bipartisan cooperation of Majority Leader Mike Mansfield of Montana and Minority Leader Everett Dirksen of Illinois, the Senate refused to add a poll tax repealer to the measure. These leaders did not oppose the abolition of the poll tax, but they questioned whether Congress could constitutionally do so simply by legislation instead of an amendment. The administration backed up Mansfield and Dirksen, and the poll tax ban remained outside the Senate version.[233] On May 25, after a mere 20 hours of debate on the contents of the bill, the Senate voted to impose cloture, thus smashing a filibuster that had hardly begun.

The House version of the administration's bill moved more slowly. Republican leaders in the lower chamber, William McCulloch of Ohio and Gerald Ford of Michigan offered a substitute plan. Rather than using a formula to trigger application of voting rights enforcement, they suggested that the attorney general appoint federal registrars to any county where he received 25 verified complaints of voting discrimination. The McCulloch-Ford plan did not suspend literacy tests in these areas; instead it applied the sixth-grade education standard adopted in the 1964 Civil Rights Act. In another important variation, their measure allowed covered locations to free themselves from Justice Department supervision of its electoral procedures by merely complying with the rulings of the federal registrar. McCulloch's efforts were genuine, as he had been an

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[230] Lawson, *Running for Freedom*, 111. The trigger also caught the state of Alaska, which had a literacy test and where less than 50 percent of the population had voted in 1964. The low turnout was attributed more to geography and the climate than to racial discrimination. Lawson, *Black Ballots*, 423, n. 117.

[231] Lawson, *Black Ballots*, 314.

[232] Nieman, *Promises to Keep*, 173.

[233] Lawson, *Black Ballots*, 316-17.

important figure in obtaining passage of the 1964 Civil Rights Act. In this instance he argued that the administration's triggering formula was too mechanical and too broadly conceived, and he wanted to tailor it to remedy ills existing only in those counties in which blacks filed written complaints of mistreatment. Regardless of McCulloch's intentions, southern lawmakers jumped behind his version as a means of weakening voting rights enforcement, much preferring it to the administration bill. Nevertheless, their efforts failed, and the House adopted the administration version in early July.

One further wrinkle needed ironing out. The House bill contained a provision repealing the poll tax in state elections, whereas the Senate version did not. President Johnson favored the Senate handiwork, and sent Attorney General Katzenbach to persuade the legislative conference committee trying to reconcile the competing bills to accept the upper chamber's. He struck a compromise with lawmakers. The conferees removed the outright poll tax ban and added language instructing the Justice Department to file suit against state use of poll tax qualifications for voting. In addition, the congressmen broadened the bill beyond race to include language minorities by extending the sixth-grade literacy standard to non-English speaking residents. On August 3 and 4, the House and Senate respectively passed the revised bill with provisions for the triggering formula, federal examiners, and Justice Department oversight firmly in place.[234]

All that was left to be done was for President Johnson to affix his signature to the law. Johnson wanted to do so amidst great fanfare. He chose to sign the measure in the same room in the Capitol Rotunda that Abraham Lincoln had used to stamp his approval on a law granting freedom to slaves owned by Civil War Confederates. On August 6, sitting at a mammoth table, the president gathered behind him a delegation of civil rights leaders, congressional supporters, and administration officials to witness this landmark occasion. To this gathering Johnson proclaimed: "Today what is perhaps the last of the legal barriers is tumbling."[235]

The Aftermath of the Voting Rights Act

As Johnson understood, passage alone did not resolve the problem. Enfranchisement depended on enforcement of the powerful act. The administration tried to show it meant business when within three days after signing the bill into law, the Justice Department dispatched federal examiners into nine counties. Among them were two that had commanded the civil rights movement's greatest attention and sacrifice: Dallas County, Alabama in which Selma was located and Leflore County, Mississippi, where SNCC and COFO had valiantly toiled. In Dallas County the percentage of African Americans signed up to vote zoomed from 2.1 in 1965 to 70.4 in 1968. Black voters in Leflore County saw their percentage skyrocket from 2.1 to 72.2. In a third notable trouble spot, "Terrible Terrell" County, Georgia, the proportion of black voters on the suffrage rolls soared from 2.4 to 53.9.[236]

While enforcement of the 1965 act proceeded, South Carolina challenged its constitutionality in the Supreme Court. The plaintiffs in *South Carolina v. Katzenbach*, joined by five other southern states, contended that Congress had exceeded its power in implementing the Fifteenth

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[234] Ibid., 320-21.

[235] Ibid., 322.

[236] United States Commission on Civil Rights, *Political Participation: A Study of the Participation by Negroes in the Electoral and Political Processes in 10 Southern States Since Passage of the Voting Rights Act of 1965* (Washington, DC: Government Printing Office, 1968), 224-25, 236-37, 244-45.

Amendment. The Palmetto State argued that by establishing the triggering formula and a Justice Department veto of changes in election laws in the covered jurisdictions, Congress encroached upon the reserved powers of the states, treated states unequally, and adjudicated guilt without due process of law. Speaking for the high tribunal, Chief Justice Earl Warren rejected these claims. The author of the opinion in *Brown* asserted that Congress had legitimately decided that the case-by-case approach of litigation did not work, and given the history of systematic resistance to the Fifteenth Amendment over the course of a century, lawmakers could constitutionally shift the burden of proof from the victims of disenfranchisement to "the perpetrators of the evil."[237]

Over the next four years, the results were striking throughout the South. Although the Federal government did not dispatch examiners to all the counties that warranted them (58 of 185 counties where less than 50 percent of blacks were enrolled received them), the mere suspension of literacy tests provided a potent boost for black enrollment. Encouraged by the 1965 Act, the Southern Regional Council initiated a second Voter Registration Project in 1966. Thus, by 1969, the proportion of registered blacks in the South swelled to an average of around 62 percent, up from 43 percent in 1964. In 1966, the Supreme Court had ruled in the case of *Harper v. Virginia State Board of Elections* that the poll tax violated the equal protection clause of the Fourteenth Amendment by discriminating against the poor.[238] The remaining obstacle installed by the post-Reconstruction governments to limit black suffrage had finally fallen.

Typically, these achievements did not come without more sorrow. Vernon Dahmer had been a leader of the movement in Hattiesburg. A cotton farmer, grocery store owner, operator of a sawmill, and NAACP member, Dahmer had opened his home to freedom riders and voter registration workers. After passage of the Voting Rights Act, Dahmer's grocery store became a place where blacks could pay their poll taxes. Dahmer even offered to pay the tax for those who could not afford it. In the early morning hours of January 26, 1966, Dahmer's house and adjacent store became the target of Klansmen. They set fire to his store and tossed Molotov cocktails through his house windows. Dahmer bravely evacuated his family members, while firing his rifle at the assailants. The flames and smoke inhalation from the blaze left him severely wounded, and Dahmer died later that day from his injuries. The rest of his family survived. Four of 16 Klansmen were convicted for Dahmer's murder, but not until 1998, after Mississippi authorities reopened the case, was Sam Bowers, the Klan's leader, found guilty of the crime.[239]

The experience of African American protest for the suffrage demonstrates that the power of the right to vote comes, not from the formality of individuals casting their ballots, but from the purposeful, collective will of the electorate. The vote furnished a necessary, but insufficient, instrument for achieving black equality in practice as well as theory. Overall, it could be said that between 1944 and 1969, southern blacks "had come out of the political desert, but they had not yet entered the promised land."[240]

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[237] *South Carolina v. Katzenbach*, 383 U.S. 301 (1966).

[238] *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966); Lawson, *Black Ballots*, 332, 334; Lawson, *Running for Freedom*, 81, 253.

[239] Davis, *Weary Feet*, 304.

[240] Lawson, *Black Ballots*, 352.

AMERICAN INDIAN VOTING RIGHTS, 1884-1965

"'Move on!' Has the Native American no rights that the naturalized American is bound to respect?" A policeman ordering a Native man to "move on" away from a voting poll. From Harper's Weekly, April 22, 1871. Library of Congress, Prints & Photographs Division [reproduction number: LC-USZ62-53856]

THE DARKNESS OF AN UNKNOWN FUTURE[1]

The struggle by American Indians to obtain the right to vote must be understood in the more general context of American history. In *The Right to Vote: The Contested History of Democracy in the United States*, historian Alexander Keyssar concluded that critical forces within our nation at once worked to expand and to limit suffrage. The "dynamics of frontier settlement . . . the rise of competitive political parties, the growth of cities and industry, the flourishing of democratic ideals and beliefs . . . effective efforts at mobilization on the part of the disenfranchised themselves" and war helped expand suffrage. However, Keyssar added, "racist and sexist beliefs and attitudes, ethnic antagonism, partisan interests, political theories and ideological convictions" and "class conflict and class tension" combined to limit its growth. The period from the mid-19th century until World War I generally witnessed "a narrowing of voting rights" and "mushrooming upper- and middle-class antagonism toward universal suffrage." Following an era that saw "limited change in the breadth of the franchise," the time from the 1960s to the present encompassed "the abolition of almost all the remaining restrictions on the right to vote."[2]

The crusade to obtain the right to vote for Native Americans generally, but not always, fits this outline. The main exception is chronological rather than thematic. The passage of the Citizenship Act of 1924 and the acceleration of the campaign for suffrage that followed World War II do not precisely follow the contours of the national experience in regard to time. But the forces that worked against universal Indian suffrage reveal a good deal about American attitudes and actions in terms of race and class and the assumed and anticipated place of American Indians within American society.

Indian voting rights constitute a significant subject, but most political scientists and historians have ignored this issue. Lumbee political scientist David Wilkins observed: "Part of the reason for the reluctance or refusal of political scientists to examine indigenous political participation rests on the fact that tribal nations, generally, do not consider themselves to be part of the pluralistic mosaic that is predominant in political science literature. Tribes perceive of themselves not only as preconstitutional entities," Wilkins emphasized, "but more importantly, as extraconstitutional polities." Many students of American Indian history are still making the transition from an emphasis on federal policy toward Indians to more extensive consideration of the people themselves. Historians also have demonstrated a great reluctance to enter the often-turbulent waters of modern Indian history, with few studies completed that deal primarily with the period from the 1960s to the present.[3]

The evolving question of Native voting rights does not mirror exactly the experiences of other people of color in this country. At one level this is hardly surprising, because there are unique

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[1] The author of this essay, Peter Iverson, Regents' Professor of History at Arizona State University, offers his thanks to his many American Indian teachers through the years and expresses his appreciation to Arizona State University graduate student Diana Meneses for research assistance. Native American individuals mentioned in this essay are identified by their affiliation(s), as in D'Arcy McNickle (Salish-Kootenai). There is no one term universally agreed upon for "Indian" peoples, so "Indian," "Native," "American Indian," "Native American," and "indigenous" are all employed here.

[2] Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000), xxi-xxiii.

[3] David E. Wilkins, *American Indian Politics and the American Political System* (Lanham, MD: Rowman & Littlefield, 2002), 188.

dimensions in the social, economic, and legal status of American Indians. Indians were here first. They signed treaties. They had reservations established for them. Although they too dealt with discrimination and racism, they also have often been romanticized and idealized. Much of our "understanding" of Indian nations has turned out to be misunderstanding.

Above all, Indian history reflects resilience and represents a continuing story. In the ongoing struggle to control their lives and lands, as D'Arcy McNickle (Salish-Kootenai) once observed, Indians "retreated, protecting what they could, managing to be on hand to fight another day when necessity required it. They lost, but they were never defeated." "It remains to be determined," he wrote in 1973, "whether in North America self-determination for an indigenous people is to have ideological acceptance and thereby attain enduring political sanction."[4]

Many individuals of color in the United States have sought equality, as measured by opportunity within and acceptance by American society. Most Indians over time have been more concerned about sovereignty and separation. The institution of the reservation exemplifies the unique standing of American Indians in American life and also the inherently conflicting demands placed on Native peoples by the Federal government. Officials testified to their belief in assimilation, but the reservation revealed the ongoing predisposition to maintain social separation between "white" Americans and other Americans. Federal policy makers and assuredly most Americans may have seen reservations as temporary, transitional creations, rather than permanent enclaves, regardless of the language employed in the treaties and the agreements. Native Americans saw these documents as promises that should be kept. While not all Indian nations prospered financially in the 20th century, many reservations did evolve into cultural and social homelands.[5]

The right to vote in non-tribal elections has not been easily gained or fully utilized by most American Indians. Wilkins declared: "As recently as 1992 the Senate Committee on Indian Affairs estimated that while over 85 per cent of native people voted in tribal elections, only about 20 per cent of those voted in federal elections." This impressive dichotomy, he argued, suggests that one cannot analyze Native participation in state and federal elections in quite the same way that one examines the participation of others. Daniel McCool, one of the few political scientists to examine the matter of Indian voting, contended that constitutional ambiguity, political and economic factors, and cultural and racial discrimination all have affected and reduced the overall participation of Indian voters in non-tribal elections.[6]

Thus, this is a subject that must be understood in several simultaneous contexts, but first it must be taken seriously. Throughout much of our national history, we have dealt with Indians in a variety of ways, but until quite recently most Americans have not paid much attention to Native

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[4] D'Arcy McNickle, *Native American Tribalism: Indian Survivals and Renewals* (New York: Oxford University Press, 1973), 4.

[5] The standard overview of federal Indian policy is Francis Paul Prucha, *The Great Father: The United States Government and the American Indians*, 2 vols. (Lincoln: University of Nebraska Press, 1984). For an analysis of Indian sovereignty and conflicts with the U.S. court system, see David E. Wilkins, *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice* (Austin: University of Texas Press, 1997). Frederick E. Hoxie, "From Prison to Homeland: The Cheyenne River Indian Reservation before World War I," *South Dakota History* 10 (Winter 1979): 1-24, examines the transformation of an Indian community.

[6] Wilkins, *American Indian Politics,* 191; Daniel McCool, "Indian Voting," in *American Indian Policy in the Twentieth Century*, ed. Vine Deloria, Jr. (Norman: University of Oklahoma Press, 1985), 105-34.

claims in regard to sovereignty. Within the workings of American popular culture and society, Indians have been dismissed as temporary and insignificant actors in the American drama. As Felix S. Cohen, longtime Federal government lawyer, wrote in an especially perceptive essay published in *The Yale Law Journal* in 1953:

> It is a pity that so many Americans today think of the Indian as a romantic or comic figure in American history without contemporary significance. In fact, the Indian plays much the same role in our American society that the Jews played in Germany. Like the miner's canary, the Indian marks the shifts from fresh air to poisonous gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our democratic faith.[7]

As the 20th century began, any public dialogue about Indians centered more on the issue of survival rather than the realization of justice. Most Americans assumed that Indian communities teetered on the edge of extinction; they believed that Indians would disappear well before the century concluded. The Indian wars, as they were popularly labeled, had come to an end on December 29, 1890, near Wounded Knee Creek in western South Dakota. In that same month, Sitting Bull, one of the great symbols of Native resistance, had been killed in a confrontation with a member of his own community who had joined the tribal police force. Only four years before, the Chiricahua Apache leader, Geronimo, had surrendered for a final time at Skeleton Canyon in southern Arizona. As the new century began, he lived on in exile at Fort Sill in Oklahoma Territory.[8]

In 1900, Indians lived on remnants of their former lands. Given prevailing patterns in American history, one could not imagine these remnants remaining under Indian control or Federal trusteeship for an extended period of time. A new law had been enacted, known as the General Allotment Act of 1887, also known as the Dawes Act after its primary sponsor, Senator Henry Dawes of Massachusetts. The act's provisions obviously had been crafted with two primary objectives: to transform reservations from communally held land to individually owned land and to enable those owners to lease or sell those parcels to non-Indians who continued to flood into the western states seeking farm or ranch land or seeking their fortunes in the development of towns and cities. If a reservation had been designated for allotment, one could not boycott the process. The Federal agent was empowered to make choices for any Indian who decided not to participate in the division of the land.[9]

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[7] Felix S. Cohen, "The Erosion of Indian Rights, 1950-1953: A Case Study in Bureaucracy," 62 *The Yale Law Journal* 348, 390 (February 1953). Cohen numbered among those who gave this subject the kind of respect and regard it merited. By his 24th birthday he had earned a Ph.D. in philosophy at Harvard and a degree in law from Columbia. Cohen left a prominent law firm in New York to work for the Interior Department on Indian issues. He wrote centrally important articles as well as *The Handbook of Federal Indian Law* before his untimely death in 1953 at the age of 46. His papers are at the Beinecke Library at Yale. "Felix S. Cohen, July 3, 1907 - October 19, 1953," 9 *Rutgers Law Review* 345 (Winter 1954).

[8] For the Indian wars, see Robert Utley, *The Indian Frontier of the American West, 1846-1890* (Albuquerque: University of New Mexico Press, 1984), 146-200. Angie Debo's final book, *Geronimo: The Man, His Time, His Place* (Norman: University of Oklahoma Press, 1985) remains important.

[9] For description and analysis of allotment, see Prucha, *The Great Father,* 2:631-86; and Frederick E. Hoxie, *A Final Promise: The Campaign to Assimilate the Indian, 1880-1920* (Lincoln: University of Nebraska Press, 1984), 147-86.

The agency in charge of federal dealings with the Indians, the Bureau of Indian Affairs (BIA), saw its primary responsibility as facilitating what historian Robert F. Berkhofer, Jr. later would term "expansion with honor." The allotment act utilized the Homestead Act of 1863 as a model, but the 160 acres available to allottees could not be perceived as comparable to the acreage available through allotment. For most migrants to the west, homesteading meant farming and on the right parcel of land, a dairy farm or a farm that emphasized the growing of an appropriate crop for the region had a chance for success. But as the frontier continued to push westward, the elevation became higher, the climate considerably drier, and the prospective rancher or farmer needed a good deal more land for a viable commercial operation. Although within the ranks of the BIA one could find professional people who truly tried to do what they perceived as being best for Native peoples, it remained a paternalistic system that appeared to be overflowing with appointees with limited skills, extended memories, and a tendency toward authoritarianism.[10]

Anticipating the extinction of Indian communities, moreover, could not be considered a new development. James Fenimore Cooper's *The Last of the Mohicans* was published in 1826. Nineteenth century painter George Catlin perceived the Indians as "melting away at the approach of civilization." U.S. Army officer James Carleton wrote in 1864 that the Navajos realized it was "their destiny . . . to give way to the insatiable progress of our race." Photographer Edward Curtis had become convinced that Indians were destined for disappearance. Over several decades in the late 19th and early 20th centuries he carried out a massive campaign to photograph individual and groups of indigenous peoples. In "A Vanishing Race," a 1904 photograph of Navajos on horseback, Curtis said he attempted to portray Indians who had been "shorn of their tribal strength" now "passing into the darkness of an unknown future." For the Pacific-Panama International Exposition in San Francisco in 1915, sculptor James Fraser fashioned a Plains Indian warrior on horseback, slumped over in defeat. He called the work "The End of the Trail."[11]

It seemed only to be a matter of time. Immigrants from around the world and migrants from the eastern United States continued to make their way into the West. The superintendent of the U.S. census declared the frontier to be over. Most Indians lived west of the Mississippi, but most non-Indians lived east of the river. With the wars over and five transcontinental railroads completed, the West represented the chance to regenerate one's fortune. Federal policy makers sought to create a new day as well for Native Americans. They often used the same rhetoric in emphasizing the need for command of the English language and love of the American flag. For example, Commissioner of Indian Affairs Thomas Jefferson Morgan pronounced: "The Indian youth should . . . be taught to love the American flag; should be imbued with genuine patriotism and should be taught that the United States, not some paltry reservation, is their home." He added: "Education should seek the disintegration of the tribes, and not their segregation. They should be educated not as Indians, but as Americans." The schools, Morgan concluded, "should do for them what they are so successfully doing for all of the other races in this country—

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[10] Robert F. Berkhofer, Jr., *The White Man's Indian: Images of the American Indian from Columbus to the Present* (New York: Random House, 1978), 134-52.

[11] McNickle, *Native American Tribalism*, 3-4; James Carleton to Lorenzo Thomas, March 12, 1864, in *Through White Men's Eyes: A Contribution to Navajo History*, ed. J. Lee Correll (Window Rock, AZ: Navajo Heritage Center, 1979), 1:29; Brian W. Dippie, *The Vanishing American: White Attitudes and U.S. Indian Policy* (Middletown, CT: Wesleyan University Press, 1982), 209.

assimilate them." Another commissioner of Indian Affairs put it more simply. He suggested that the Federal government had the responsibility to make the Indian feel at home in America.[12]

If our national history had suggested anything about Native Americans, it had emphasized endings rather than beginnings. Passage of the General Allotment Act and subsequent acts and court decisions facilitated the transfer of what remained of the Indian estate. For every three acres possessed by Indians in the mid-1880s, two had been wrested from them by the mid-1920s. Regardless of Indian sentiment and the language included in treaties or executive orders establishing Indian reservations, most Americans assumed that these enclaves would not persist for many more years. After designing the Allotment Act, Dawes went on to engineer the "Great Sioux Agreement" of 1889 and other creations obviously meant to speed this process along. In regard to the agreement, he commented: "We may cry out against the violation of treaties, denounce flagrant disregard of inalienable rights and the inhumanity of our treatment of the defenseless . . . but the fact remains. . . . Without doubt these Indians are going to be absorbed into and become a part of the 50,000,000 of our people."[13]

The possibility of voting in Federal elections did not exactly top the list of priorities for Indian communities at the turn of the century. They had to concentrate on survival, on getting from one day to the next in the face of all of the difficulties confronting them. With the end of buffalo hunting and raiding on the Plains, Indian men had to find new ways to honor old values. Hemmed in by new boundaries, consigned to lands that in many instances they did not know well, these indigenous nations hoped somehow to discover new means to stay together, to remain on what land remained to them. For tribal councils to be established successfully, for American Indians to be allowed to vote and then to decide that it mattered to vote in non-tribal elections, reservations had to become a little less like prisons and a little more like home. Indians generally had to be able to believe in the future once again as well as remember the past.[14]

The Ironic Consequences of the Reservation System

The reservation constituted, in historian Robert Trennert's words, an "alternative to extinction." Federal officials interested in encouraging people to migrate to the West realized continuing confrontation, let alone war, did not expedite this process. Moreover, they wanted America to be perceived as a law-abiding and high-minded nation where national expansion took place in an honorable way. They saw reservations as a means to end continuing bloodshed on the frontier and prepare Indians to live in a rapidly changing world.[15] Amherst College president Merrill Gates did not mince words. He argued Indians needed to become "more intelligently selfish," to be "touched by the wings of the divine angel of discontent." Gates thought it time, in sum, "to

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[12] Not counting St. Louis and Minneapolis along the Mississippi River, of the 20 largest cities in the United States only San Francisco is in what was then considered the West. Los Angeles in 1900 claimed fewer people than Jersey City, NJ; Worcester, MA; or New Haven, CT. The statistics are from the U.S. census of 1900. Francis Paul Prucha, ed., *Americanizing the American Indians: Writings of the "Friends of the Indian," 1880-1900* (Cambridge: Harvard University Press, 1973), 3; Prucha, *The Great Father,* 2:702-03.

[13] Prucha, *The Great Father,* 2:703-04.

[14] Hoxie, "From Prison," 1-24.

[15] For an overview of how the reservation concept evolved from a policy motivated by considerable idealism, see Robert A. Trennert, *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846-51* (Philadelphia: Temple University Press, 1975).

get the Indian out of the blanket and into trousers—and trousers with a pocket in them, and a pocket that aches to be filled with dollars!"[16]

The reservation may have been designed to encourage assimilation, but it also revealed the Anglo-American tendency to keep people of color in separate residential spheres. Reservations were perceived as places where Indians could learn the language, the religious beliefs, the values (including private property) of the American nation. At the same time, having a degree of geographic separation allowed for new institutions to develop that promoted social and cultural separation. In an era when the Supreme Court decision of *Plessy v. Ferguson* sanctioned "separate but equal," Indian reservations could foster new means of promoting continuity within a world of rapid change. This is not to suggest that all Indians prospered during this era. It is useful to remember that unfortunate policies always yield only unfortunate results. In the face of discrimination and in response to difficult times, American Indians often reaffirmed their identities as members of particular Native communities. Part of who they were could be found in who they were not.[17]

Assimilationists believed that the way to promote progress in Indian communities lay in treating Native people just like everyone else. In common with those immigrants who came to Ellis Island, Indians were expected to learn English, to Anglicize the spelling of their name, and to readily occupy a relatively low place on the American socio-economic ladder. Federal officials and philanthropists actively discouraged the speaking of any language other English. The emphasis on vocational-technical training for all boarding school students rather resembled what schools like Tuskegee in Alabama offered African American students. Pupils were being more prepared for the century that was ending, rather than the century that was beginning. Even though many non-Indians believed that Indians should leave reservations and find their way in a dynamic, expanding society, most Indians placed a higher value on observing old values and finding a place within an ongoing Native community. In the face of such tremendous pressure to give up on the land and to forsake traditional practices, Indian women and men remarkably found ways to transition to tomorrow.[18]

The Attempted Imposition of Authority

Countless officials and self-identified reformers spoke about the need for Indians to assume greater responsibility over their affairs. Yet on many reservations, agents or superintendents did not appear all that eager to relinquish power and many missionaries seemed all too eager to win converts to one denomination or another. Superintendent William Shelton of Shiprock, New Mexico threw Navajos into the local jail so frequently that local Diné began to refer to the building as "Shelton's hotel." Superintendent Ernest Stacher of Crownpoint, New Mexico

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[16] Prucha, *Americanizing the American Indians,* 331-34.

[17] Historians examining the period from the 1880s to the 1920s now portray this era as including both agency and victimization. See, for example, L. G. Moses, *Wild West Shows and the Images of American Indians, 1883-1933* (Albuquerque: University of New Mexico Press, 1996); Frederick E. Hoxie, *Parading Through History: The Making of the Crow Nation in America, 1805-1935* (New York: Cambridge University, 1995); and Peter Iverson, *Carlos Montezuma and the Changing World of American Indians* (Albuquerque: University of New Mexico Press, 1982). Hazel W. Hertzberg discussed changes in language, transportation, and communication in *The Search for an American Indian Identity: Modern Pan-Indian Movements* (Syracuse: Syracuse University Press, 1971).

[18] For an overview of Indian education at this time, see David Wallace Adams, *Education For Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence: University Press of Kansas, 1995).

authorized the use of hobbles to prevent boys and girls from running away from the local boarding school. Responding to criticism of this terrible practice, Stacher retorted that the school only employed hobbles on "chronic runaways" and "as a last resort to keep them here, when kindness and persuasion had no effect."[19]

Indians could joke about a night in Shelton's hotel, but being sentenced to a state prison or a place like Alcatraz represented something other than a laughing matter. Many prisoners did not know exactly why they had been sentenced or how long they would have to remain in incarceration. The heavy-handed and irresponsible imposition of authority could not extinguish the desire that Native Americans felt to exercise greater self-determination. Indeed, it helped eventually fuel the movement that sought more control over Native lives and lands.[20]

Certainly the early years of schools and reservations did not initially inspire confidence in the future. Students often hated the cruelty and insensitivity of teachers and dormitory aides. Employees at such institutions believed they were preparing the students for more opportunities and better lives, but the students did not always accept this perspective. As historian Brenda Child (Red Lake Ojibwe) has noted, parents often sympathized with pupils who ran away or who engaged in other forms of rebellion. Many mothers and fathers, however, remained determined that their sons and daughters gain the kind of education they needed to forge a better future. Education meant both change that could be abrupt and unsettling, and empowerment that brought new horizons. In the end there was little alternative, if one wanted their community to survive.[21]

The Struggle for Citizenship and Suffrage

The court case *Elk v. Wilkins* (1884) provided an early indication that the right to vote and U.S. citizenship would not be easily gained by American Indians. John Elk departed from his Indian community and moved to Omaha. When he attempted to vote in that location, election supervisors denied him that exercise. Elk appealed and the U.S. Supreme Court eventually decided that Elk did not have the right to vote in Omaha. It concluded Elk was not an American citizen and that the Fifteenth Amendment did not apply to him. Wilkins observed how "the Supreme Court held that Indians maintained allegiances to their own 'alien nations' and could thus not be considered loyal Americans." This important decision cast a long shadow over attempts by Indians to vote.[22]

Indians could gain citizenship, however, by accepting an allotment of land. The General Allotment Act of 1887 made more Indians citizens but they fractured and devastated the Native estate. An amendment to the Allotment Act, called the Burke Act after its primary sponsor, Charles Burke (future Commissioner of Indian Affairs), accelerated the process through which Indian allottees could sell or lease their land to outsiders. Attorney Jeannette Wolfley (Ponca)

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[19] Peter Iverson, *Diné: A History of the Navajos* (Albuquerque: University of New Mexico Press, 2002), 108-20, Stacher's quotes on 119-20.

[20] Ibid.

[21] See Brenda J. Child, *Boarding School Seasons: American Indian Families, 1900-1940* (Lincoln: University of Nebraska Press, 1998), 87-95; and Scott Riney, "Discipline, Punishment, and Violence" in *The Rapid City Indian School, 1898-1933*, ed. Scott Riney (Norman: University of Oklahoma Press, 1999), 138-66.

[22] Vine Deloria, Jr. and Clifford M. Lytle, *American Indians, American Justice* (Austin: University of Texas Press, 1983), 220; Wilkins, *American Indian Politics,* 193; *Elk v. Wilkins*, 112 U.S. 94 (1884).

concluded, "the legal status of Indians represented a state unknown. Indians were neither citizens nor alone. They were not white under the naturalization laws, or slaves, or persons in a previous condition of servitude. Barring special acts, treaties, or a unconstitutional amendment, many Indians appeared to be in a legal vacuum." The continuing, incorrect image of Native peoples as nomadic, rootless groups worked against understanding them as groups who were more sedentary and rooted than outsiders realized.[23]

Including Indians in the electoral process in a state like Vermont did not arouse controversy; the census taker in 1900 counted all of five Native Americans within that state's borders. However, in states with a significant indigenous population, non-Indians generally tried to keep Indians out of the voting booth. Building on the work of attorney Monroe Price, Vine Deloria, Jr. (Standing Rock Dakota) and political scientist Clifford M. Lytle outlined what they termed "five basic arguments that states have used to prevent American Indians from registering and voting." They are (1) severance of tribal relations, (2) lack of state power over Indian conduct, (3) fear of political control shifting to Indian majorities, (4) guardianship, and (5) residency.[24]

Even though many Indians continued to be denied citizenship and the right to vote, nearly all Native Americans supported Native participation in World War I. Carlos Montezuma, M.D., (Yavapai) raised the question of Native status in this context: "We Indians are ready to defend the country of our forefathers as we have been doing these five hundred years against all odds," he wrote, "but . . . what are we? We are nothing but wards; we are not citizens." One of the first Indian M.D.s in the United States, Montezuma published his own newsletter to record Indian achievements, reveal injustice on reservations, and advocate universal Indian citizenship and the abolition of the BIA. He died in 1923, one year before the Citizenship Act finally passed. In the final edition of his newsletter, he urged his readers to "go ahead and fight on for freedom and citizenship" and "to remain on the pathway that leads to the emancipation of our race, keeping in our hearts that our children will pass over our graves to victory."[25]

Most Indians saw the war as an opportunity to demonstrate their patriotism. More than 16,000 Native people served in World War I, including several thousand non-citizens who volunteered for duty. For example, Ross Shaw (Pima) was not a citizen and thus ineligible for the draft, but nevertheless signed up. In her memoir, Anna Moore Shaw praised Ross Shaw, her former fiancé, and other such men as "patriots all" who "decided to risk their lives for their native land, as had their ancestors." Those who joined the armed services and fought in the war did gain citizenship, although the process took longer than many observers thought that it should.[26]

In the meantime, Indian voting continued to be an issue throughout America. The question proved problematic in many eastern and southern states because some small groups who self-identified as Indians were not seen as Indians by either other recognized Native communities or by non-Indian residents of these areas. Using North Carolina as an example, we can appreciate why the Eastern Cherokees generally did not support the efforts of the Lumbees, another Native

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[23] Jeannette Wolfley, "Jim Crow, Indian Style: The Disenfranchisement of Native Americans," 16 *American Indian Law Review* 167, 182 (1991).

[24] Deloria and Lytle, *American Indians,* 223-25.

[25] "Carlos Montezuma on the Draft, 1917," in *Talking Back to Civilization: Indian Voices from the Progressive Era*, ed. Frederick E. Hoxie (Boston: Bedford/St. Martin's, 2001), 125-27.

[26] Anna Moore Shaw, *A Pima Past* (Tucson: University of Arizona Press, 1974), 143-46.

community in the state, to gain recognition as an Indian people. By the start of the 20th century, the Lumbees had achieved considerable headway in defining themselves as Indians. Although they never gained Federal recognition as an Indian tribe nor established a reservation, the Lumbees did succeed in 1885 in obtaining state recognition as an indigenous entity and received state funding to operate their school system. The Lumbees developed a separate school system and dozens of all-Indian churches. They did not want to be in the same school system or attend the same churches as local African Americans, even though most Lumbees were primarily of American Indian and African American biological heritage.[27]

The Lumbees gave new meaning to an old term. In the Plains country people spoke of "mixed bloods," but in that region one almost always meant a mix of "White" and "Indian" ancestry. The matter of "blood" clouded the claims for federal recognition initiated by many marginalized American Indian groups east of the Mississippi River. Established Native communities, such as the Eastern Cherokees, did not always applaud the efforts of other enclaves to gain recognition and acceptance, but these other groups persisted in their efforts.[28]

In Nevada some Shoshones hesitated about the tradeoffs that might be involved with citizenship. Some feared the possible loss of certain federal services. Others saw their people as a sovereign nation or as a separate nation. Still others worried about the possible imposition of additional taxes. Historian Steven Crum (Western Shoshone) noted: "to oppose citizenship, several Western Shoshone and Northern Paiute leaders sponsored anti-citizenship meetings in northern Nevada from 1924 to 1930 . . . most Shoshones—at least those in northern Nevada—refused to register to vote in local, state, and national elections."[29]

The courthouse in Lake County, California became an important center in the drive to register Indians to vote. Its significance in regard to California Indian history is found in the story of Ethan Anderson (Pomo). Anderson lived off the reservation and was determined to register to vote. In 1915 he attempted to register but was turned away by the Lake County clerk. For two years Anderson and other Native Californians raised money for a lawsuit. In 1917 Anderson took his case to court and won, gaining voting rights for Indians in the state who did not live on a reservation.[30]

Universal citizenship finally arrived through the Citizenship Act passed by Congress in 1924. The act said that acquiring citizenship "shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property." The act did not make all Indians eligible to vote,

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[27] John R. Finger, *Cherokee Americans: The Eastern Band of Cherokees in the Twentieth Century* (Lincoln: University of Nebraska Press, 1991), 45-46; Jack Campisi, "Lumbee," in *Native America in the Twentieth Century: An Encyclopedia*, ed. Mary B. Davis (New York: Garland, 1996), 32.

[28] Jack Campisi and Laurence M. Hauptman, "There Are No Indians East of the Mississippi," in *Tribes & Tribulations: Misconceptions about American Indians and Their Histories*, ed. Laurence M. Hauptman (Albuquerque: University of New Mexico Press, 1995), 94-108.

[29] Steven J. Crum, *The Road On Which We Came: Po'i Pentun Tammen Kimmappeh: A History of the Western Shoshone* (Salt Lake City: University of Utah Press, 1994), 69.

[30] The first courthouse in California to be listed on the National Register of Historic Places, it is now the Lake County Pioneer and Indian Museum. "A History of American Indians in California: Historic Sites," at http://www.nps.gov/history/history/online_books/5views/5views1.htm, maintained by the National Park Service.

but it did confer citizenship on approximately 125,000 people and its symbolic significance cannot be denied.[31]

Opposition to the Enfranchisement of Indians

American historians have written considerably about the fragile nature of voting rights in the South during the final years of the 19th century and the first years of the 20th century. Once Reconstruction had been abandoned, a version of the old order started to surface. Conservative whites employed violence and other forms of intimidation in an effort to discourage or prevent African Americans from voting. Hispanic Americans confronted similar tactics in the Southwest. American Indians soon discovered that it was one thing to have the right to vote and another thing to exercise that right.[32]

In the American electoral system, states control the process of voting. This control did not help increase the percentage of American Indians participating in the electoral process. Indians who resided in Minnesota, for example, may have been U.S. citizens, but many non-Indians believed that Native peoples were not citizens of the state. If they were not perceived as truly citizens of the state, then they should not be allowed to vote. Because many Indians did not pay as many different kinds of taxes as non-Indian citizens paid, this seeming inequity caused many non-Indians to oppose Indian voting.

According to historian Frederick Hoxie, all of the states with a significant Indian population in the late 19th and early 20th centuries attempted to discourage Native American participation in the electoral process. Colorado, Montana, Nebraska, Oregon, South Dakota, and Wyoming stipulated that the elector had to be a U.S. citizen. Minnesota, North Dakota, Oklahoma, and Wisconsin dictated that voters must be "civilized," with all but Oklahoma requiring voters to have "adopted the language, customs, and habits of civilization." Arizona, Idaho, Nevada, New Mexico, Utah, and Washington denied reservation residents the right to vote because they did not pay state taxes and thus did not support state government as fully as other voters. Arizona, Nevada, and Utah required prospective Indian voters to live off of a reservation and to be citizens. Several states also claimed that Indians were "under guardianship" and therefore the equivalent of inmates in a prison or patients at an insane asylum.[33]

Keyssar's conclusions about this area echoed Hoxie's judgments. By the early 1900s, he wrote, "nearly all states with Native American populations had enacted . . . double-edged constitutional or statutory provisions (see Table 1). "On the one hand," Keyssar stated, "they—explicitly or implicitly—enfranchised some Native Americans, generally those who had assimilated or 'severed their tribal relations.' At the same time, states disfranchised Indians who continued to belong to tribes, or were 'not taxed' or 'not civilized'." Keyssar concluded: "The prevailing policy was clear, if difficult to apply: Native Americans could become voters, but only by surrendering or repudiating their own culture, economic organization, and societal norms."[34]

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[31] Linda S. Parker, "The Indian Citizenship Act of 1924," in *Between Two Worlds: The Survival of Twentieth Century Indians*, ed. Arrell Morgan Gibson (Oklahoma City: Oklahoma Historical Society, 1986), 44-71.

[32] Wolfley, "Jim Crow," 181-82.

[33] Hoxie, *A Final Promise*, 231-34.

[34] Keyssar, *The Right to Vote,* 164-66.

TABLE 1: NATIVE AMERICAN VOTING RIGHTS, 1870-1920[35]

State	Date	Provision
California	1849 C	The legislature may, "by a two-thirds concurrent vote," admit "to the right of suffrage, Indians, or the descendants of Indians in such special cases as the legislative body may deem just and proper." (Provision came into effect with statehood in 1850.)
Idaho	1899 C	Excludes "Indians not taxed, who have not severed their tribal relations and adopted the habits of civilization." (Provision came into effect with statehood in 1890.)
Maine	1819 C	Excludes Indians not taxed. (Provision came into effect with statehood in 1820.)
Massachusetts	1869 S	"Indians and peoples of color, heretofore known and called Indians…are citizens of the Commonwealth…entitled to all the rights, privileges, and immunities" of citizenship.
Massachusetts	1892 S	"Indians residing within this commonwealth shall, as citizens thereof, have all the rights, privileges, and immunities, and be subject to all of the duties and liabilities to which all other citizens of the Common-wealth are entitled and subject."
Michigan	1850 C	Includes "civilized male inhabitants of Indian descent, native of the United States and not a member of any tribe."
Michigan	1908 C	Includes "every inhabitant of Indian descent, a native of the United States."
Minnesota	1857 C	Includes "persons of mixed white and Indian blood who have adopted the custom and habits of civilization; persons of Indian blood residing in the State, who have adopted the language, customs, and habits of civilization; after an examination before any district court of the State, in such manner as may be provided by law." (Provision came into effect with statehood in 1858.)
Minnesota	1917 C	Denied the right to vote to all "tribal Indians." To vote, Indians had to sever relationsh with Tribes. (*Opsahl v. Johnson,* 163 N.W. 988 (Minn. 1917)).
Mississippi	1868 C	Excludes Indians not taxed.
Mississippi	1890 C	Excludes Indians not taxed.
Montana	1897 S	Excludes from residency "any person living on an Indian or military reservation, unless that person previously had acquired a residence in a county of Montana and is in the employ of the government while living on a reservation." (Because there was a residency requirement of one year in Montana, this statute effectively disenfranchised those living on Indian reservations.)
New Mexico	1910 C	Excludes Indians not taxed. (Provision came into effect with statehood in 1912.)
North Dakota	1889 C	Includes "civilized persons of Indian descent who shall have severed their tribal relations next preceding such election."

[35] Ibid., Appendix, Table A-15. In the table's *Date* column, C=constitution, S=statute. States not listed in the table had no provisions specifically concerning Native Americans.

State	Date	Provision
North Dakota	1896 S	"No Indian or person of Indian descent who has not received a final patent conveying the title in free of lands allotted to him within the boundaries of this State, pursuant to an act of Congress of the United States approved February 8, 1887…shall be deemed a qualified elector…or entitled to the rights and privileges of an elector unless he was born within the limits of the United States, and voluntarily taken up his residence and within this state separate and apart from any tribe of Indians therein, and adopted the habits of civilized life, and is no manner subject to the authority of any chief or council or Indian agent or council or Indian agent of the United States."
North Dakota	1913 C	Includes "civilized persons of Indian descent who shall sever their relations two years l such election."
Oklahoma	1907 C	Includes "persons of Indian descent, native of the United States."
Rhode Island	1842 C	Excludes members of the Narragansett tribe.
Texas	1869 C	Excludes Indians not taxed.
Washington	1889 C	Excludes Indians not taxed.
Washington	1896 C	"Indians not taxed shall never be allowed the elective franchise."
Wisconsin	1848 C	Includes "persons of Indian blood who have once been declared by law of Congress to be citizens of the United States," or "civilized persons of descent, not members of any tribe."
Wisconsin	1882 C	Includes "persons of Indian blood who have once been declared by laws of Congress to be citizens of the United States, any subsequent law of Congress to the contrary not withstanding; (and) civilized persons of Indian descent not members of any tribe."
Wisconsin	1893 S	Includes "any civilized person being a descendant of the Chippewas of Lake Superior, other Indian tribe, and residing within this State, and not upon any Indian reservation, v shall make and subscribe to an oath...that he is not a member of any Indian tribe, and h claim upon the United States for aid and assistance from any appropriation made by C for the benefit of Indians, and that he thereby relinquishes all tribal relations, and right claim or receive any aid from the United States."

Minority groups in the territory of Alaska also experienced voting discrimination. While Alaska historian Steve Haycox believed that the territory had "a tradition of liberality in regard to voting and other civic affairs," the examples of William Paul and Alberta Schenck suggest that this tradition may have been better established in some parts of Alaska than in others. William Paul and his brother, Louis, were both active in the Alaska Native Brotherhood (an organization that encouraged hard work, a positive perspective on the future, and an expansion of opportunities for the Inuit (Eskimos), Indians, and Aleuts (occupants of the Aleutian Islands)). William Paul attended Carlisle Indian Industrial School in Carlisle, Pennsylvania, and then went to earn a law degree. He returned to Alaska and emerged as a strong leader in the fight for equality. Everywhere he looked he found more work to be done. Paul served in the Alaska legislature for more than 20 years.[36]

[36] Stephen Haycox, "William Paul, Sr., and the Alaska Voters' Literacy Act of 1925," *Alaska History* 2 (Winter 1986-87): 17-38.

Alaska discouraged voting by many minority group members through the imposition of a literacy test. Indeed, the language employed by territorial newspapers and many Alaska politicians paralleled the language being employed elsewhere at the prospect of Indians casting their ballots.[37] Illiteracy of most Native voters posed a challenge for Paul but he solved it by preparing "sample ballots and cardboard cutouts which would cover all but the appropriate boxes when placed on the actual ballot. By placing an 'X' in the squares showing through the cutouts, illiterate Indians could be sure of voting for Paul's choices." The question of whether or not to have a literacy test for Indians came to the fore in the 1920s. In the American South, literacy tests for decades helped limit African American participation in the electoral process. Politicians in Alaska hurried to find a way to block the rising tide of Native voting. H. Royal Shepard of Juneau accused Paul of manipulating the Native vote and introduced a bill to impose a literacy test. However, supporters of a literacy test could not gain approval of a majority in the Senate. As Paul's power continued to grow, so too did the partisan outcry against him. Finally in 1925, Alaska passed a watered down literacy act. While Paul continued to serve in the legislature, no other Native politician gained election to the legislature until after World War II. It is difficult to measure the full impact of this struggle, but the overall atmosphere surrounding this question hardly encouraged other indigenous citizens to seek public office outside of their home communities.[38]

Many Indian communities applauded the Citizenship Act of 1924 but worried about its implications. In Nevada, for example, anthropologist Martha Knack observed how some Paiutes feared that being registered "to vote would make them liable to auto and hunting licensing laws and property taxes." Jurisdictional questions cut in more than one direction. The Las Vegas newspaper published editorials arguing that Indians living on reservations should not have the right to vote in non-tribal elections. Non-Indians employed in the copper industry who resided on Shivwits lands wondered whether they still would be able to vote. Public antagonism toward Indian voting stalled any Native movement to vote in Clark County. After the Citizenship Act passed, no Indians voted in the county between 1924 and 1930.[39]

In 1927 the Montana legislature carved up its counties into districts, each served by three commissioners, all elected on an at-large basis. This arrangement "hobbled Indian voting potential." Ten years later a new law dictated that all deputy registrars had to be taxpayers and that meant, of course, that no Native Americans from that point forward held this job. Through a variety of strategies, then, Indians continued to be discouraged from voting or from supervising the electoral process. A few hardy souls did run for office, but they lost consistently to non-Indian opponents. A relatively small number of Native voters attempted to cast their ballots, even in the face of harassment. Many non-Indians did all they could to make registering to vote and actually voting a thoroughly unpleasant experience. As in the American South, would-be voters often had to register in a place where they did not feel comfortable, such as a store that did not welcome Indians. People at the polls tracked those who did vote. If the results proved

[37] Ibid.

[38] Ibid.

[39] Martha Knack, *Boundaries Between: The Southern Paiutes, 1775-1995* (Lincoln: University of Nebraska Press, 2001), 210-11.

unfavorable to certain interests, then it was always possible that in the aftermath a voter could lose his or her job, place of residence, or have a loan suddenly be refinanced.[40]

Pollsters always remind us that voters are more likely to show up if there is a hotly contested race or a controversial proposition on the ballot. Voters are also more likely to participate if they have strong feelings about who is elected to the school board, the town or city council, and so forth. In other words, they are more apt to vote if they have some kind of investment in the results. Thus, it is not surprising that in the early years of some reservation communities, Native voters did not express much enthusiasm about the choices confronting them on the ballot. At this point Native persons were ultimately more concerned about survival than about which candidate would gain a seat on a local elected body whose decisions might affect basic concerns about how land was used or how a law might be interpreted.

However, as Indians became more and more attached to the lands contained within the reservation boundaries (if they did not gain reservation land in what they considered to be their homeland), they became all the more determined to use any means possible to safeguard this acreage. Even though during the early 20th century the BIA employee assigned to a particular reservation often attempted to rule it heavy-handedly, some fundamentally important transitions were beginning to occur. Since the Federal government increasingly defined people as being from a particular reservation and since place had become increasingly defined as important to one's identity, then during the early 20th century, indigenous people began to call this place home. This identification and subsequent investment began to make it progressively more important to take part in certain elections, either at the tribal level or at a local level that included both Indians and non-Indians. Hoxie argued persuasively that we should see this era not as "a period of assimilation but as a time of rapid cultural change." He added: "[T]he early history of the Cheyenne River Reservation should be understood not as a time of defeat and hopelessness but as a crucial period of adaptation and survival."[41]

A case involving two Pima men, residents of the Gila River reservation in Arizona who tried to participate in the first presidential election following passage of the Citizenship Act, demonstrated that the act had not removed all the barriers confronting Indian voting rights. A Pinal County official denied this attempt to vote in the November 8, 1928, election, arguing that the men were not residents of Arizona and that they were "persons under guardianship." Challenging this decision in *Porter v. Hall*, the Arizona Supreme Court determined that Indians living on reservations in Arizona were residents of the state, but as persons under guardianship were not entitled to vote. It defined a "person under guardianship" as "any person who, by reason of personal inherent status, age, mental deficiency, or education, or lack of self-control, is deemed by the law to be incapable of handling his own affairs in the ordinary manner." Guardianship, the court stated, existed because of the Indian "condition of tutelage or dependency." Therefore "so long as the federal government insists that, notwithstanding their citizenship, their responsibility under our law differs from that of the ordinary citizen, and that they are, or may be, regulated by that government by virtue of its guardianship, in any manner

[40] Orlan Svingen, "Jim Crow, Indian Style," *American Indian Quarterly* 11 (Fall 1987): 271-72.

[41] Hoxie, "From Prison," 23-24.

different from that which may be used in the regulation of white citizens, they are within the meaning of our constitutional provision, persons under guardianship, and not entitled to vote."[42]

In a law review article concerning the legal status of Indian suffrage published soon after this decision, Neal Doyle (N. D.) Houghton of the University of Arizona argued that the justices did not think it advisable "as a matter of sound public policy" to "suddenly" extend "the voting privilege to great numbers of tribal Indians living on reservations" who are "largely beyond the authority of state law and government." Houghton concurred, arguing that "Indians living on reservations and enjoying immunity from state authority" were not entitled to the franchise. There the matter rested in Arizona for an appeal would have been both expensive and time-consuming and ultimately the men and their allies decided not to take the issue to the U.S. Supreme Court. This decision disappointed Felix Cohen and others. In an article published in the *Minnesota Law Review,* Cohen stated: "The defense of Indian rights in the Federal courts is a significant part of the pageant of American liberty. Across the panorama of the years pass judges who were tolerant enough to appreciate the grievances of an oppressed people and courageous enough to vindicate rights that Presidents, cabinet officers, army generals and reservation superintendents had violated."[43]

Voting in Different Political Arenas

Voting rights on reservations and within Indian communities formed an important element in the overall effort to gain the right to vote in federal elections. Native attitudes toward participating in non-tribal elections affected eventual participation in county, state, and federal electoral contests. When the Federal government attempted to impose a form of tribal government with which its officials felt comfortable, frequently this creation did not seem appropriate to the Indians themselves. In those instances, Native individuals often boycotted this new institution and tried to find additional ways and means to disrupt or discredit it.

In both style and substance these newly developed councils often differed from the prevailing ways of decision making. Indian communities tended to emphasize thorough examination of a particular question. They wanted to be sure everyone who wished to speak had a chance to do so. The smaller the community the more important it became to avoid factional disputes. The ideal answer to a question facing a body representing the people would be one that reflected a degree of compromise and embodied a degree of consensus. The Federal government wanted councils to follow a fixed routine, as in Robert's Rules of Order, and to make decisions promptly and decisively. Councils often were formed initially in order to satisfy outside demands for utilization of some resource: oil, coal, gas, timber, or some other valued substance that was situated within the confines of the reservation. As the century progressed, these demands escalated. If the council was to have a chance of truly representing the people and mirroring community sentiment, then well-regarded people had to be willing to serve on it and had to obtain sufficient support to gain election or re-election.

Some councils succeeded in representing the people in confronting difficult questions facing the community. Others did not, for a variety of reasons. Some Indian nations had established

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[42] N. D. Houghton, "The Legal Status of Indian Suffrage in the United States," 19 *California Law Review* 507, 509 (July 1931) citing from *Porter v. Hall*, 34 Ariz. 308, 331; 271 P. 411, 419 (1928).

[43] Houghton, "The Legal Status," 519, 520; Felix S. Cohen, "Indian Rights and the Federal Courts," 24 *Minnesota Law Review* 145, 199 (January 1940).

traditions for decision making that involved hereditary positions passed down from one generation to the next. Others might have discouraged younger individuals from taking on too significant a role before they had gained the kind of wisdom that only came with age. Still others might have reacted negatively against a new council because its functioning gave priority to those who spoke English or who had greater experience in dealing with the outside world.

Participation on the council or observation of council decision making began to widen the political world view of many Native Americans. Indian individuals and nations witnessed the impact of political decisions and recognized the need to become more fully involved in the larger political arena. However, it proved difficult to maintain that interest in the face of continuing prejudice at the polls.

Voting on the Reservation

As American Indians attempted to gain the right to vote in local, state, and national elections, a related but not always parallel proposition began to emerge within the boundaries of the reservations. Voting rights within Indian nations eventually encompassed a series of significant and often not easily resolved questions. As the Federal government began its attempts to impose forms of tribal government that reflected Anglo-American values and traditions, Indians debated among themselves about what kind of government would be both culturally appropriate and politically effective.

Indian community decision making usually involved extended discussions that sought the ultimate goal of consensus. What the Indians perceived as necessary thoroughness often appeared absolutely endless and often irrelevant to local BIA bureaucrats. These officials preferred what they perceived as prompt, efficient, and focused discussions. They also advocated majority rule. If a council had 12 members and a motion carried seven to five, then according to this system those who had voted in the minority had to say to themselves, "better luck next time." Yet if the seven-to-five vote had not achieved a degree of compromise, an ultimate conclusion that all 12 council members could live with, then most community members would have declared that democracy had triumphed but the community had not been well served.

The smaller the community the more devastating this factionalism could become. If some members of an Indian nation became increasingly disaffected, there remained the possibility that this faction would consider the newly established council an ineffective group that did not work. Then this group might well express its disapproval by boycotting its meetings and ignoring its decisions. When things reached this point, a council might attempt to function, but it would be to little avail.

The New Deal Years

The election of Franklin D. Roosevelt in 1932 ushered in a new era of federal policy toward American Indians. Roosevelt's Commissioner of Indian affairs, John Collier, had been a vitriolic critic of the government's policies during the 1920s. Now Collier assumed the unenviable assignment of reforming the very agency he had criticized so severely. He wanted to move federal policy from its staunchly assimilationist approach to one that allowed for cultural pluralism. Collier wanted to end land allotment, encourage the development of written forms of Native languages, support freedom of religion, and encourage Indian arts. Collier argued that Indian societies "whether ancient, regenerated or created anew must be given status, responsibility, and power." The commissioner stated: "The experience of responsible democracy, is, of all experiences, the most therapeutic, the most disciplinary, the most dynamic,

and the most productive of efficiency." However, in his eagerness to realize immediate and far-reaching reform, Collier ultimately revealed some of the same paternalistic tendencies as his predecessors.[44]

In 1934 Congress passed the Indian Reorganization Act (IRA, also known as the Wheeler-Howard Act after its congressional sponsors, Senator Burton Wheeler of Montana and Representative Edgar Howard of Nebraska). Collier helped organize a series of "congresses" that Indians could attend to learn more about the details of the pending legislation. Even though the act ultimately did not go as far as he hoped it would in terms of Indian self-government, he saw it as a step in the right direction, including the formation or reformation of tribal councils with a constitution. Conservatives within the U.S. Congress disliked its anti-assimilationist stance, opposed one key component establishing an independent court system, and kept tribal council decisions subject to review by the commissioner and the Secretary of the Interior. Many old-time BIA employees remained wedded to an assimilationist approach and thus opposed Collier at every turn. Christian missionaries also often opposed Collier because he did not agree with their condemnation of traditional tribal ceremonies and the Native American Church.[45]

Collier supported the idea of having each reservation vote on whether or not the provisions of Wheeler-Howard would apply to them. The commissioner initially assumed that once Indian nations received a full and fair picture of the IRA they would vote overwhelmingly in favor of it. When he and other federal officials realized that approval would be far from automatic in many Native communities, they devised a scheme that increased the chances for success. Any adult member of a particular nation who did not actually cast a ballot on this issue would be counted as favoring the act. If 50 people voted against the IRA, and 30 voted for it, and 25 did not vote, the measure would pass. Since many Indian groups expressed disapproval by boycotting, this added to the chances that the act would be "approved."[46]

The vote on the St. Regis Mohawk reservation in upstate New York offered an example of how this process could work. A total of 518 out of 800 eligible voters boycotted the proceedings, yet the Federal government announced that the Mohawks had "approved" the measure. Collier fully realized that they did not and he left them alone. Even with this innovative way of tallying votes, almost a third of the 258 nations rejected the act. Historian Laurence Hauptman believed the Six Nations of the Iroquois disapproved of the IRA because of "the belief in continued sovereignty under treaties with the United States, fears of changes in jurisdiction, and the ethnocentric world-view" of the people. The Mohawks, Oneidas, Onondagas, Cayugas, Tuscaroras, and Senecas feared that if they voted affirmatively it might open the door to a renewal of land allotment, an increase in taxation, and the loss of additional lands. Many Indian communities worried that rather than furnishing self-government the IRA would make their own councils or committees

[44] The best survey of Collier's term as Commissioner of Indian Affairs remains Kenneth R. Philp, *John Collier's Crusade for Indian Reform, 1920-1954* (Tucson: University of Arizona Press, 1977), 113-213. Collier quotes from Prucha, *The Great Father*, 2:944.

[45] Prucha, *The Great Father,* 2:944-45.

[46] Ibid., 135-60. See also Vine Deloria, Jr., and Clifford Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1984).

even more vulnerable to the whims of the Secretary of the Interior, who would review all legislation they had passed.[47]

The new or revised councils often did not get off to a good start. In many instances older and more culturally conservative people believed the new system diminished their power and authority. They feared younger members of their community, less grounded in traditional ways, would gain power. Many councils began under a cloud of suspicion or distrust. Some floundered; others failed. The Depression that gripped the United States proved especially severe in Indian country. Many individuals departed from their home area in search of work. The Hopi tribal council simply went out of business for more than a decade because of internal disagreements among the Hopis.[48]

Many of the western states campaigned against Indian voting rights in non-tribal elections. Legal historian John R. Wunder noted, "Because most Indians could not participate in the democratic process, they seemed less inclined to see how useful it might be on their own reservations." He summarized: "California, Washington, New Mexico, and Idaho disenfranchised Native Americans through their state constitutions. South Dakota prevented those Indians who retained their tribal membership from voting" and "Colorado refused to allow Indians to vote because the state's lawyer incorrectly ruled that Native Americans were not classified as U.S. citizens."[49]

The Significance of World War II

The attack on Pearl Harbor produced immediate and overwhelming Native support for the Allied cause. Twenty-five thousand Indians served in the armed forces. In addition, Native Americans purchased more than $17,000,000 in war bonds. Thousands of people worked in war-related industries. In retrospect, this service appears all the more impressive considering that Indians in many states Indians still could not vote. Indians earned 71 Air Medals, 34 Distinguished Flying Crosses, 51 Silver Stars, 47 Bronze Stars, hundreds of Purple Hearts and 2 Congressional Medals of Honor. Pima private Ira Hayes gained instant international fame when Joe Rosenthal photographed him as one of the men raising the American flag on Iwo Jima. Even though many Americans had judged them unworthy to cast a ballot, Native soldiers were worthy enough to take a bullet. More than 700 Indians were wounded in combat and 450 died in defense of Indian lands and the United States. Moreover, that tradition of contributing to the armed forces hardly disappeared at war's end. Today one of every four adult American Indian men is a veteran.[50]

War heightened the consciousness of countless Indian soldiers about the continuing inequities of American life. They turned to each other and said, essentially, "If we are good enough to fight and die for our country then we ought to be able to vote." For those Navajos who became a part

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[47] Laurence M. Hauptman, *The Iroquois and the New Deal* (Syracuse: Syracuse University Press, 1981), 68-69.

[48] Harry C. James, *Pages from Hopi History* (Tucson: University of Arizona Press, 1974), 205.

[49] John R. Wunder, *"Retained by the People": A History of American Indians and the Bill of Rights* (New York: Oxford University Press, 1994), 66-67.

[50] For overviews of American Indians and World War II, see Alison R. Bernstein, *American Indians and World War II: Toward a New Era in Indian Affairs* (Norman: University of Oklahoma Press, 1991); Kenneth William Townsend, *World War II and the American Indian* (Albuquerque: University of New Mexico Press, 2000); and Jeré Bishop Franco, *Crossing the Pond: The Native American Effort in World War II* (Denton: University of North Texas, 1999).

of the fabled Code Talkers in the Pacific campaign and for all Navajo servicemen and servicewomen who were not a part of that unit, but took great pride in their achievements, the prohibition against voting seemed especially galling.[51] In 1943, army Private Ralph Anderson, a Navajo, wrote a letter to the chairman of the Navajo tribal council and the superintendent of the Navajo reservation to express his outrage about the denial of the right to vote to Indian reservation residents. Anderson expressed pride in being Navajo and in being American, but he could not accept this situation. The Navajo reservation was situated in three states: Arizona, New Mexico, and Utah. All three states denied the right to vote to Indians who lived on reservations, even though, as Anderson concluded, "[h]undreds of young Navajo boys" were "all over the world fighting for their country just like anybody else. We know Congress granted the Indians citizenship in 1924, but we still have no privileges to vote. We do not know what kind of citizenship you would call that."[52]

When Superintendent James Stewart received Ralph Anderson's letter, he struggled to respond in an appropriate manner. "Your patriotism is not denied," Stewart wrote, "your devotion to duty is beyond question . . . you are entitled to the same right of suffrage as other citizens." He pledged: "While you are fighting on the battle front, a fight must be waged here on the home front to obtain for you the right accorded all free peoples." Stewart articulated the hope that the battle for voting rights would be "as successful as your fight here so that upon your return you can take your rightful place in the powerful army of citizens, kept free through your efforts, and cast your vote with theirs."[53]

As the war went on, American Indian soldiers lost their lives. Private Clarence Spotted Wolf, a Gros Ventre from northern Montana, was among those who lost his life. Spotted Wolf was killed in a battle in Luxembourg four days before Christmas in 1944. His family followed the instructions he had left with them before his departure: "If I should be killed, I want you to bury me on one of the hills east of the place where my grandparents and brothers and sisters and other relatives are buried. If you have a memorial service, I want the soldiers to go ahead with the American flag. I want cowboys to follow, all on horseback. I want one of the cowboys to lead one of the wildest of the T over X horses with saddle and bridle on. I will be riding that horse."[54]

The war eliminated what remained of the separation and isolation that had often characterized reservation life. Because of their varied experiences—in the armed forces, in off-reservation war-related industries, and as laborers for the railroad and many other employers—Indians generally possessed a much stronger sense of that larger world in which they and their community had to live. Dakota linguist Ella Cara Deloria summarized the transition: "The war

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[51] Franco, *Crossing the Pond*, 133.

[52] Ralph Anderson to Chairman of the Navajo Tribal Council and Superintendent of the Navajo Reservation, April 30, 1943, reprinted in "*For Our Navajo People": Diné Letters, Speeches, and Petitions, 1900*-1960, ed. Peter Iverson (Albuquerque: University of New Mexico Press, 2002), 144-45.

[53] Iverson, *Diné*, 201.

[54] Peter Iverson, "Building Toward Self-Determination: Plains and Southwestern Indians in the 1940s and 1950s," *Western Historical Quarterly* 16 (April 1985): 165.

has indeed wrought an overnight change in the outlook, horizon, and even the habits of the Indian people—a change that might not have come for many years yet."[55]

The war years did include unanticipated and unwanted usurpation of Native American lands. The Federal government appropriated land from the Gila River and Colorado River reservations in Arizona for two of the Japanese American internment camps. These were temporary intrusions, unlike the land taken from Lakotas at Pine Ridge in South Dakota for a gunnery range. Eventually the people whose land had been taken for this military purpose received partial financial compensation. What they really wanted was the land and the land was never returned.[56]

During the war discrimination had not taken a holiday. Two of the most striking examples of ongoing racism occurred in Alaska. That state's African American population remained small until after World War II, but in the words of a visiting journalist who came to the territory in 1943, the status of indigenous persons was "equivalent to that of a Negro in Georgia or Mississippi." According to Alaskan historian Terrence M. Cole, prior to the war, Natives were often denied the right to vote and were compelled to attend segregated churches and to send their children to segregated schools.[57]

Two stunning examples of that racism took place during the war. The anger over these and other incidents fueled the fight for voting rights after World War II had ended. Unangan (Aleuts) residing in the Aleutian islands were evacuated during the war, ostensibly because their home country might well have become a major battleground. Hundreds of people were interned and forced to live in miserable conditions until the war ended. The sprinkling of whites who lived in the Aleutians were not compelled to leave. When those who had survived imprisonment finally were permitted to return home, they discovered that U.S. soldiers had trashed their homes and churches. Religious icons that truly could not be replaced had vanished together with personal property they had assumed would not be harmed in their absence.[58]

The second incident involved a young Yup'ik (formerly Eskimo) woman who, along with many other indigenous citizens in Alaska had grown weary over "No Natives Allowed" signs, segregated seating at movie theatres, and the bigoted attitudes of people like General Simon Bolivar Buckner, Jr., the commanding officer of the Alaska Defense Command. When Governor Ernest Gruening complained to Buckner about his views, Buckner responded, "I can think of no better way to exterminate native tribes than to encourage their women to associate with unmarried white men, far from home and from white women." When Gruening introduced an anti-discrimination bill in the 1943 legislature it failed on an eight-to-eight vote. The only good thing about the result, Gruening said afterward, was that it might "awaken the Indians from their political lethargy" and encourage them to become a "potentially powerful constituency" in

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[55] Ella Cara Deloria, *Speaking of Indians* (New York: Friendship Press, 1944), quote on 94, 137-48.

[56] Peter Iverson, *We Are Still Here: American Indians in the Twentieth Century* (Wheeling, IL: Harlan Davidson, 1998), 110-13.

[57] Terrence M. Cole, "Jim Crow in Alaska: The Passage of the Alaska Equal Rights Act of 1945," *Western Historical Quarterly* 23 (November 1992): 429-34.

[58] Ibid., 437-38. See also Dean Kohlhoff, *When the Wind was a River: Aleut Evacuation in World War II* (Seattle: University of Washington Press, 1995).

Alaska politics. That legislative action, in turn, demonstrated beyond any doubt the importance of greater Aleut, Native, and Inuit (Eskimo) involvement in local and state elections.[59]

Alberta Schenck had been fired from her job at a movie theatre in Nome because she complained about segregated seating there. She had also written a letter to the editor of the Nome newspaper in which she suggested to her readers that segregated seating and other practices "were not in the spirit of Thomas Jefferson's Declaration of Independence or the U.S. Constitution that she was studying in school," but rather were "following the steps of Hitlerism." Several days later she and her date, a white sergeant stationed in Nome went to see a film at the theatre and sat on "the white side." "Suddenly," historian Terrence Cole wrote, "the manager came down the aisle and ordered her to move." When she refused, the manager left, came back with the town police chief and the two men grabbed her, pulled her into the aisle, pushed her out the door and threw her into the Nome jail, where she spent the night. Her experience helped ignite the ultimately successful effort to pass an equal rights bill into law.[60]

In 1946, Felix Cohen summarized the importance of Indian voting rights. "In a democracy," he argued, "suffrage is the most basic civil right, since its existence is the chief means whereby other rights may be safeguarded." When the war ended, Indian veterans began to test the state laws banning them from voting. On May 3, 1946, William Ashley, Theodore R. Dawes, Tom Irving, Charlie Manuelito, Salago Nez, Robert Perry, and Alvin Wilson drove south to the Apache County seat, St. Johns, in Arizona. The small off-reservation Mormon enclave, about 100 miles south of Ganado and well over 200 miles south of Mexican Water (the northernmost Navajo community within the county), housed the one site in the county where prospective voters could attempt to register. The seven Navajo men duly filled out the appropriate forms. Ashley proclaimed that he weighed 145 pounds and could read the English language well enough to understand the U.S. Constitution. He noted his status as a veteran. Like a majority of Arizonans at this time, he identified himself as a Democrat. The county clerk dutifully filled in additional information about Ashley. In the space that said "color," he entered "Indian." He then took the forms over to the local justice of the peace. The justice of the peace, in turn, rejected the applications in accordance with the instructions he had received from the county attorney.[61]

Not every person in St. Johns expressed pleasure at these developments. Levi Stewart Udall thought it a bad business. Udall was a well-regarded and ambitious attorney who hoped to be appointed to the Arizona Supreme Court. Only a decision at that level, he realized, could open the door to Navajo participation in the electoral process. A few weeks before Ashley and his compatriots had made their trek to St. Johns, Udall had written to a friend outlining this situation and expressing the hope that if he gained a seat on the court then "[m]aybe there will be something I can do."[62]

In the meantime the prospects for registration appeared a bit brighter in New Mexico. Four Navajos in San Juan County already were registered to vote, and had voted in prior elections.

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[59] Cole, "Jim Crow in Alaska," 439, 441-49, quotes on 437, 439, 440.

[60] Ibid., quotes on 443.

[61] Wunder, "Retained by the People," 86 including Cohen quote; Iverson, *Diné,* 201-04.

[62] Iverson, *Diné,* 203-04.

They also all shared the name of Morgan. Former Navajo tribal council chairman Jacob C. Morgan, Mrs. Jacob C. Morgan, Wilbur E. Morgan, and Irvin Morgan all owned property and all had established residency in the county seat of Farmington, just east of the Navajo reservation line. The real test came when other Navajos who lived on the reservation and did not pay property taxes attempted to register.[63]

Robert Martin, the tribal council representative of Shiprock, presented an automobile tax receipt as evidence of his status and was allowed to vote in a local election. Others cast absentee ballots in the same election. Additional Navajo residents of Farmington (Hugh Dempsey, Taylor Jones, Ben Lopez, and George Yazzie) and two residents of the border town of Bloomfield voted, but some reservation residents also sent in absentee ballots, including Keeyah H. Begay, Kee D. Jackson, and Hugh S. Johnson from Toadlena as well as 11 people from the Shiprock area: Roland N. Begay, Daniel Benally, Clah Been Nez, Fred Blue Eyes, John Chee, Willie Frank, LeRoy John, Joe Kee, Frank D. Pete, Norman Yazzie, and Woody Yazzie.[64]

On May 6, 1946, John Dayish, Harry Denetclaw, Julie Denetclaw, Jimmie K. King, Howard H. Nez and other Diné came to the Shiprock public school in a vain effort to register to vote. They filled out affidavits that affirmed the length of their residence in New Mexico and San Juan County and their particular voting precinct. It did not take long for Dayish to complete this form. "Fifty-three years," he observed, "53 years, 53 years." Julie Denetclaw's form mirrored that of Dayish. "Forty-eight years," she wrote, "48 years, 48 years." Despite the fact they had lived their entire lives in the same place, they could not register at this time.[65]

Such complete and unhesitating denials of the fundamental right to vote angered not only Ralph Anderson, William Ashley, John Dayish, and Julia Denetclaw, but American Indians everywhere. Exclusion of the Indians as Indians, however, appeared consistent with the overall political climate of the era. A movement thus began to terminate federal trust responsibilities to Indians and to "liberate" Native Americans from BIA control.[66]

From the mid-1940s to the early 1960s this crusade attempted to end the trust status of various Indian reservations. Advocates of termination like Senator Arthur Vivian Watkins of Utah testified that Indians wanted "representation without taxation." "He can tax all the rest of us and vote for people who do tax us," Watkins said, "but he doesn't want to pay taxes himself even though he is able to do so." The senator called termination "the Indian freedom program." "Secluded reservation life is a deterrent to the Indian," Watkins insisted, "keeping him apart in ways far beyond the geographic." He believed "[w]e should end the status of Indians as wards of the government and grant them all of the rights and prerogatives pertaining to Indian citizenship." "Following in the footsteps of the Emancipation Proclamation of ninety-four years

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[63] Ibid.

[64] Ibid.

[65] Ibid. See the text of Julia Denetclaw's affidavit in Iverson, "*For Our Navajo People,"* 148.

[66] See, for example, Donald L. Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986).

ago," Watkins concluded, "I see the following words emblazoned in letters of fire above the heads of the Indians—THESE PEOPLE SHALL BE FREE!"[67]

Ruth Muskrat Bronson (Oklahoma Cherokee) spoke out strongly against the movement to terminate trust status for Indian communities. She expressed her "deep concern that termination is being decided upon without the consent, nay, over the protests of the Indians concerned. Shouldn't the Indians have the same right to self-determination that our government has stated, often and officially, is the inalienable right of peoples in far parts of the world? Do we apply a different set of principles, of ethics, to the people within our own borders?"[68]

Felix Cohen joined Bronson in protesting restrictions on Indian liberties and the steady movement toward what he termed "bureaucratic aggrandizement" that had characterized the BIA following Collier's departure in 1946. He worried that this situation could not be altered "until Americans assume either a higher respect for inexpert human beings or a lower respect for expert administrators." Although Watkins and his allies might contend that their ends justified their means, Cohen retorted that the means mattered in and of themselves: "[W]hile the means we use may be moulded by the ends we seek," he wrote, "it is the means we use that mould the ends we achieve."[69]

The Veterans Come Home

When the veterans returned to their home communities, they became all the more determined to end laws and practices that kept Indians as second class citizens. Even before the war ended, some groups had begun to organize to carry on the fight for enfranchisement. In North Carolina, for example, members of the Steve Youngdeer American Legion Post started to organize for their campaign for voting rights. Despite resistance from Jackson and Swain county election boards, they persisted. In one of many moments that paralleled the struggle to register by African Americans in the South, a Swain County registrar asked Eastern Cherokees to read and interpret material in a law book. The veterans, nevertheless, were determined to succeed and finally the boards capitulated and permitted the Eastern Cherokees to register.[70]

A Yavapai veteran, Frank Harrison, and another Yavapai man, Harvey Austin, attempted to register to vote in Maricopa County, Arizona but county registrar Roger G. Laveen did not allow them to do so. For attorneys interested in overturning Arizona's stance on the eligibility of reservation residents, Harrison and Austin furnished an especially viable case. Both men owned property and social security payments were being deducted from their paychecks. Yet Arizona had decided that Harrison and Austin were not eligible to vote. Fort McDowell attorneys Lemuel and Ben Matthews and Congressman Richard F. Harless filed the suit. The Justice Department, the Interior Department, and the National Congress of American Indians filed briefs

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[67] Arthur V. Watkins, "Termination of Federal Supervision: The Removal of Restrictions Over Indian Property and Person," *Annals of the American Academy of Political and Social Science* 311 (May 1957): 47-55. See also R. Warren Metcalf, *Termination's Legacy: The Discarded Indians of Utah* (Lincoln: University of Nebraska Press, 2002).

[68] Ruth Muskrat Bronson, "Ruth Muskrat Bronson Criticizes the Proposed Termination of Federal Trusteeship, 1955," in *Major Problems in American Indian History*, ed. Albert L. Hurtado and Peter Iverson (Lexington, MA: D. C. Heath & Co., 1994), 492-94.

[69] Cohen, "The Erosion of Indian Rights, 1950-1953," 390.

[70] Finger, *Cherokee Americans*, 106-07.

in support. James E. Curry, an attorney with a national reputation for his work regarding Indian issues, represented the Yavapais on appeal, with the intrepid Felix Cohen providing counsel to Curry.[71]

The case, *Harrison v. Laveen*, made its way to the Arizona Supreme Court. A new member, Levi Stewart Udall, wrote the majority decision. Beginning with a reference from Hamlet ("The right of American Indians to vote in Arizona elections for state and Federal officers has after two decades again arisen, like Banquo's ghost, to challenge us"), Udall soon focused on a key point: "neither the payment of taxes nor the rendering of military service by plaintiff is any way determinative of the right to vote for the reason that the law (our constitution and statutes) does not prescribe such as necessary qualifications as our elector." Udall nodded in the direction of Justice Alfred C. Lockwood, the author of the *Porter v. Hall* decision a generation before, saying that "no better case can be made for those subscribing to the view that tribal Indians are not legally entitled to vote in Arizona than was made by Justice Lockwood." "We have, however," Udall immediately added, "no hesitancy in re-examining and reconsidering the correctness of the legal principles involved because the civil liberties of our oldest and largest minority group (11.5% of State's population) of whom 24,317 are over twenty-one years of age (1940 U.S. census) are involved, and it has ever been one of the great responsibilities of supreme courts to protect the civil rights of the American people, of whatever race or nationality, against encroachment."[72]

Udall then emphasized the importance of access to the polls. He knew full well the remarkable dimensions of his home county and realized the importance of finding ways for people to be able to vote without a pilgrimage preceding it. One also had a right to cast one's ballot without harassment. In *Porter v. Hall* the majority opinion had been influenced by a conclusion relating to public policy—that it might well not be advisable for "large numbers of tribal Indians" who lived on reservations to be able to vote because they remained "entirely immune from the laws and governmental authority of the state." Udall stated that he agreed with the minority view, as expressed by Chief Justice Henry D. Ross that public policy had to be left up to "the executive and legislative departments and that the courts must base their decisions on the law as it appears in the constitution and statutes." Udall argued that wardship for the Indians could not be equated with state wardship for minors, criminals, and the mentally handicapped. According to political science professor Daniel McCool, the court had "also noted that an extensive search of the proceedings of the Arizona Constitutional Convention failed to discover any evidence that the clause was intended to apply to Indians."[73]

A mere two weeks after *Harrison v. Laveen* had been decided, New Mexico confronted the same issue. A man from Isleta Pueblo, Miguel Trujillo, had been denied the right to vote since he did not pay state taxes on his property. Trujillo taught at the Laguna Pueblo day school and had started work on a master's degree at the University of New Mexico. After he had been denied the right to vote, he sued and a judicial panel ruled in his favor. Judge Orie L. Phillips stated: "We all know these New Mexico Indians have responded to the needs of the country in time of

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[71] Iverson, *Diné,* 202-03; Dan Liefgreen, "Indians Honor the Sparkplug of Voting Rights in State," *Scottsdale Daily Progress,* May 28, 1982; Deloria and Lytle, *American Indians,* 222-26; Kathleen Stanton, "Walk to Recorder's Office Began Battle That Won Vote for Indians," *Arizona Republic,* September 10, 1980.

[72] *Harrison et al. v. Laveen*, 196 P. 2d 456, 457-58 (1948).

[73] Ibid., court quotes on 460; McCool, "Indian Voting," 109.

war. Why should they be deprived of their rights to vote now because they are favored by the Federal government in exempting their lands from taxation?" Other states had granted veterans tax exemptions. Phillips asked, "Would the state of New Mexico say to these veterans, because they are favored through exemption, should not have the right to vote?" The judge concluded: "The New Mexico Constitution . . . says that 'Indians not taxed' may not vote, although they possess every other qualification. We are unable to escape the conclusion that, under the Fourteenth and Fifteenth Amendments, that constitutes a discrimination on the ground of race." Phillips then stated:

> Any other citizen, regardless of race, in the State of New Mexico who has not paid one cent of tax of any kind or character, if he possesses the other qualifications, may vote. An Indian, and only an Indian, in order to meet the qualifications of a voter, must have paid a tax. How you can escape the conclusion that that makes a requirement with respect to an Indian as a qualification to exercise the elective franchise and does not make that requirement with respect to the member of any other race is beyond me. I just feel like the conclusion is inescapable.[74]

These decisions also mattered because of the size and prominence of the Indian communities in Arizona and New Mexico. Chief counsel for the United States Indian Service, Theodore Haas, stated that the Indian population in the two states amounted to more than one-quarter of the United States total. His brief essay for general distribution entitled "Should Indians Vote?" began with an understated generalization: "In a real democracy government is with the consent of the governed." He also called it "interesting" that "Arizona and New Mexico, the last states to allow Indian suffrage, are the only two states which do not permit Indians to receive social security grants." Arizona Indians also did not participate in 4-H programs.[75]

The matter of public policy and Indian voting rights also figured prominently in Utah where an 1897 state law denied voting privileges to Indians living on reservations. Then in 1956, a Ute man living on the Uintah reservation sought an absentee ballot from the Duchesne County clerk. She rejected the application and cited the 1897 statute, which specifically declared: "Any person living upon any Indian or military reservation shall not be deemed a resident of Utah."[76]

John H. Allen's article published in the *Utah Law Review* emphasized the importance of the state in regard to Indian rights. "The right to vote," he wrote, "is not specifically granted by the United States Constitution and is not a privilege springing from federal citizenship." By the mid-1950s, Allen contended, "the question of voting rights for Indians is largely moot." He added: "While the problem is admittedly small in terms of the persons affected, as a matter of political propriety it would seem important." The Utah Supreme Court in *Allen v. Merrell* concluded: "It is thus plain to see that in a county where the Indian population would amount to a substantial proportion of the citizenry or may even outnumber the other inhabitants, allowing them to vote

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[74] *Trujillo v. Garley*, D. Ct. New Mexico, unreported; Cohen, "The Erosion of Indian Rights," 879-91; Judge Phillips quotes taken from McCool, "Indian Voting," 108; Gordon Bronitsky, "Isleta's Unsung Hero: Veteran's Toughest Fight Earns Voting Rights," *New Mexico Magazine* 67, no. 8 (1989): 85-91.

[75] Theodore Haas, "Should Indians Vote?" (Lawrence: Haskell Institute for the United States Indian Service, 1949), leaflet.

[76] McCool, "Indian Voting," 108. Since 1940, other Indians had voted in the county when a sympathetic attorney general encouraged the state not to enforce this provision.

might place substantial control of the county government and the expenditure of its funds to a group of citizens who as a class had an extremely limited interest in its function and very little responsibility in providing the financial support thereof." The legislature in 1957 finally passed legislation reversing its stance before the U.S. Supreme Court vacated the decision. Indians residing on Utah's reservations at last could go to the polls and cast their ballots.[77]

While the primary battlegrounds for the realization of Indian voting rights remained west of the Mississippi, struggles also occurred in other portions of the United States. The experiences of two small but resilient Indian communities in Maine, Passamaquoddy and Penobscott, demonstrated that Native voting rights must be analyzed as a national indigenous issue. They also exemplified the need to recognize the resilience and determination of dozens of small tribes that had yet to gain recognition from the Federal government as a true Indian community. The Passamaquoddies and the Penobscots had survived pandemics, factionalism, and virulent racism. They would not retreat from their demand to take part in non-tribal elections. Finally in 1954, the state of Maine granted the right to vote to the Passamaquoddies and the Penobscots. For centuries, non-Indian residents of Maine had assumed that these small nations were destined for disappearance. Now, they began to realize the communities were actually on the road to reappearance, a fact that would soon be underlined by a major land claims settlement between the state and these very Indian nations that altered both Maine's future and the future for the Passamaquoddy people and the Penobscots.[78]

The Acquisition of Attorneys

The acquisition of attorneys by many Indian communities during the era immediately following World War II also accelerated enfranchisement. The U.S. Congress created the Indian Claims Commission in 1945 to allow indigenous communities to gain compensation for land they had lost and for which they had not been properly compensated. The attorney(s) hired by the particular Indian nation supervised the gathering of evidence, but given the demands on his/her time this business had to be dealt with promptly, fairly, and conclusively. At a time when relatively few Indians had graduated from college, the general counsel served as a kind of power broker. The counsel provided advice about how the community should respond to a variety of proposals that called for the use of indigenous natural resources or the utilization of local labor. For any Indian nation containing oil, coal, uranium, or other minerals, some kind of experienced counsel proved absolutely necessary.[79]

The need for independent counsel for individual Indians had long been apparent. There were too many problems not being addressed at the local level. These young, smart, ambitious attorneys began to demonstrate to their employers that they were quite willing to work hard and for long hours. They confronted local industries and small businesses. They established order again and

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[77] John H. Allen, "Denial of Voting Rights to Reservation Indians," 5 *Utah Law Review* 247, 256 (Fall 1956). *Allen v. Merrill*, 6 Utah 2d 32, 305 P. 2d 490 (1956), 353 U.S. 932 (1957).

[78] For thoughtful overviews of the Passamaquoddy and Penobscot communities, see Robert H. White, *Tribal Assets: The Rebirth of Native America* (New York: Henry Holt, 1990).

[79] For an optimistic view of the general counsel's impact on Indian life, see Henry F. Dobyns, "Therapeutic Experience of Responsible Democracy," in *The American Indian Today*, ed. Stuart Levine and Nancy Oestreich Lurie (Deland, FL: Everett/Edwards, 1968), 171-86.

again. They quickly gained applause from the Indians and animosity and antagonism from the people or interests that had, they charged, been causing so much trouble.[80]

The legal services program became involved in such issues as sales contracts, social security, workmen's compensation, unemployment, misdemeanors, pawn, and grazing rights. Many Indians had been poorly treated by unscrupulous merchants and sales persons. The program promoted empowerment at the individual and community level. As voters started to realize that politics could mean more than protecting the status quo, the degree of their involvement naturally expanded.[81]

School Board Elections

In the 1960s, the public schools on Indian reservations had generally been in place for less than a generation. Approval of Public Laws 815 and 874, modeled after federal support for schooling the children of military personnel, had made possible the construction and maintenance of Indian public schools. Indian voters expressed less interest in who happened to be running for state or national offices. The state capitol often was distant and Washington, D.C. was ever more so.

Voting for school board members revealed a very different level of engagement. Attorney Daniel Rosenfelt summarized the situation in the 1970s: "These elected school boards have power to hire and fire school personnel, develop curriculum (consistent with state requirements), negotiate contracts, and organize or reorganize the manner in which the district is operated. Indian controlled boards can bring in Indian administrators, Indian teachers and Indian personnel, and can insist upon the development relevant to Indian needs." A report by the National Indian Youth Council in 1986 counted 852 Indians holding non-tribal positions. School board membership counted for over 90 percent of this total.[82]

From the 1950s to the 1970s, in one public school district after another, where Indian students formed either a majority or a significant minority of the enrollment, Indian parents registered for the first time in order to participate in the effort to gain control over school districts. By 1973, 78 public school boards had Indian majorities. As the school boards began to change their membership, principals and superintendents who had not been supportive of including materials relating to Native American histories and cultures started to find themselves out of work. The Chinle school district in the heart of the Navajo Nation furnishes a case in point. In the late 1960s and early 1970s, newly registered Navajo voters recalled non-Navajo board members, replaced them with Navajos, and brought about the departure of the superintendent who had publicly made it clear that he had no respect for the Diné. In Chinle and elsewhere one saw more people with college degrees and more prominent individuals from the community decide to get more involved. Such districts, in turn, began to attract more Indian teachers who were enthusiastic about contributing to this kind of environment.[83]

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[80] Ibid. Some of these attorneys represented Indian communities for 20 years or more and often cast a long shadow over the workings of Native government.

[81] For an assessment of the impact of the legal services program in Navajo country, see Iverson, *Diné,* 236-39, 250-52.

[82] Daniel Rosenfelt, "Indian Schools and Community Control," 25 *Stanford Law Review* 4, 490-550 (April 1973).

[83] Ibid., 512-13; Iverson, *Diné,* 296-300.

Some Native people worried about the possibility that voting for school board members would lead to termination of Indian trust status. However, since they had no influence over the BIA schools, the possibility of power in the public schools almost defied belief. Immediate consensus rarely accompanied the achievement of control. Indian parents and community members disagreed about central issues, such as the degree to which indigenous language or languages should be emphasized. But it now had become the community's decision to make.

Conclusion

Gaining the right to vote marked an important point in American history, even if this acquisition did not automatically improve every person's life. Western South Dakota furnished an instructive example of continuing problems. Oglala Lakota journalist Tim Giago documented how reapportionment that finally took place in 1982 enabled Indians to be elected for the first time to the state legislature. Only with federal intervention did this historic change occur; "it required federal intervention to force the all-white legislative body to reapportion the voting districts that gerrymandered the Indian reservations so that the Native Americans of the state would be able to elect representatives. Even though Indian people comprised as much as 85 percent of some counties, the voting districts were apportioned in such a way that many of these all-Indian counties had never been able to elect representatives."[84]

This success at the polls did not entirely remove Indian concerns about potential negative consequences stemming from greater involvement in state politics. "Many believe," Giago wrote, "if we are sucked into the state processes, it is the first step toward allowing the state to assume jurisdiction on our reservation." Here, again, the long memory emerged: "Given the past record of state government to usurp Indian lands by whatever devious means at their disposal, outright theft included, is it any wonder that the Indian people have not been clamoring to become a part of something they have no respect for, fear and abhor?" Past fraud and corruption, he emphasized, "may be ancient history to most non-Indians but they are not ancient history to the Indian tribes. We can look upon this land that was taken from us illegally every day of our lives . . . it is a constant reminder of our past dealings with the state and federal government." Nevertheless, once changes had taken place to allow for Indian representation, Giago stressed the importance of Native involvement in this process, the need to take proper advantage of what he termed a "new beginning."[85]

Even with such emotions present, in many locations the turnout by Indians to vote in state and national elections has remained barely more than minimal. Even though the Indian population has increased dramatically it remains minuscule in most areas in comparison with the African American and Hispanic vote. Using the 1980 census, sociologist Stephen Cornell concluded: "The Indian vote has limited potency. Indians make up less than 1 percent of the U.S. population. In only five states did Indians constitute 5 percent or more of the population in 1980: Alaska (16 percent), New Mexico (8.1 percent), South Dakota (6.5 percent), Arizona and Oklahoma (5.6 percent each)." Moreover, as Cornell phrased it, Indians "face the further problem of their own diversity." It is often difficult for people enrolled in one Native community to know well people from another. In sum, the Indian electorate has great potential, but the very diversity of the Indian population has made it difficult to achieve a degree of

[84] Tim Giago, *Notes From Indian Country*, vol. 1 (Rapid City, SD: Keith Cochran, 1984), 196.

[85] Ibid.

consensus. As with other peoples of color, Indians should not be perceived as a monolithic entity only speaking with one voice.[86]

Comparable memories and emotions accompanied elections at the town and county level. In Minnesota, for example, according to a report issued by the state League of Women Voters, Prior Lake's city council "annexed the Shakopee-Mdewakton community in 1972 without Indian consent, then refused to provide police services or handle misdemeanor cases for the community." A decade later, in 1983, Prior Lake "argued that since the annexation was done without Indian consent it was invalid and that the community should not be a part of the city." It then "drew new voting lines excluding the Indians." The Prior Lake city manager attempted to justify the action, saying if someone from the reservation got elected to the council "you would have a situation where they would be voting to spend the city's money, but they wouldn't have any direct involvement in where that money came from. A decision to raise taxes wouldn't affect them." The tribe then took the matter to court and the court ruled in its favor, requiring the town to allow reservation residents to vote and to provide fire and emergency services to them.[87]

Language is another factor affecting Indian participation in non-tribal elections. Many older Native voters are not fluent in English and ballots printed only in English deter them from going to vote. Under the Voting Rights Act, as amended in 1975, if such voters comprised at least 5 percent of the local electorate, they are entitled to bilingual ballots or accompanying interpreters to translate the ballot. There have been many examples of resistance to such regulations, ostensibly because of cost, but ultimately because of ongoing assimilationist perspectives.[88]

Indians who sought political office at the local level frequently encountered opposition based on bias rather than philosophical differences. Tom Shirley (Navajo) became a county supervisor in the fall of 1972, with 67 percent of the vote. His opponent in the race was Thomas Minyard, a rancher who lived on the Navajo reservation. Minyard and three other local ranchers: Clair Platt, Ted Spurlock, and Jay Reese, protested the election. Minyard argued that Shirley was immune from civil suits and from taxation by the state and thus he was not a full U.S. citizen. Shirley's attorney, George Vlassis, also served at this time as general counsel for the Navajo Nation. In response to Minyard's argument, Vlassis retorted that Shirley would be subject to recall, that he paid federal income tax and state taxes on income earned off of the reservation. Spurlock resorted to the same kind of "domino theory" that had been embraced in Minnesota. He acknowledged that Shirley would probably be an excellent county supervisor, but since Navajos now formed a majority in the county, they were capable of "taking over the courthouse" by winning supervisor seats, judgeships, and the sheriff's office. Blocked from taking office for more than a year, Shirley eventually did become a county supervisor.[89]

The right to vote in tribal elections has not only been important within an Indian community but also can have a major effect on the surrounding area. Indian politics have experienced

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[86] Stephen Cornell, *The Return of the Native: American Indian Political Resurgence* (New York: Oxford University Press, 1988), 128-48, quotes on 167-69.

[87] Elizabeth Ebbott for the League of Women Voters of Minnesota, *Indians in Minnesota*, ed. Judith Rosenblatt, 4th ed. (Minneapolis: University of Minnesota Press, 1985), 76-77.

[88] Deloria and Lytle, *American Indians*, 226.

[89] "Navajo Blocked From the Job He Won: Rival to Fight Arizona Court Ruling that Upholds Indian," *New York Times,* September 30, 1973.

factionalism, but there are leaders who enjoy a long run of popularity. Wendell Chino, for example, served as chairman of the Mescalero Tribal Council in New Mexico for 17 consecutive two-year terms. A short man with a booming voice, he would not be pushed around nor would he be patronized. Choctaw president Philip Martin of Mississippi has carved out a remarkable record as a long time political leader. Martin has almost single-handedly made Choctaw one of the great economic success stories of the modern South.[90]

The advent of gaming on Indian land has had many effects on contemporary indigenous communities, but one has surely been to make them more engaged in the workings of state and national government. American political scientists and historians may generally ignore American Indian politics, but Indians cannot ignore American politics. Wilkins has suggested "a majority of Indians support tribal sovereignty, but increasingly many of these Indians also believe that in order to protect their sovereign rights they must participate in the American electoral process." "Celebrate 50 Years of Arizona Indian Citizens' Right to Vote," a September 1998 conference held at the Gila River Pima reservation, exemplified contemporary Native "political pragmatism." In addition to commemorating *Harrison v. Laveen,* the gathering, sponsored by several Indian communities and several Native associations, brought candidates together with several hundred Native attendees to discuss key concerns: appropriations, education, elders, environment, Indian child welfare, and, of course, gaming.[91]

The Voting Rights Act of 1965, passed in regard to black disenfranchisement, stands out as a turning point in the effort to gain universal Native American suffrage. Amendments to the act in 1970, 1975, and 1982, point out Historian Suzanne Evans, "had significant implications for Indian voting." Federal supervision of conditions encouraged a gradual reduction in hostilities at voting sites and more equitably situated registration sites. Also, federal registrars could now be dispatched into states with dubious Native American voting records to make sure that indigenous voters were not being harassed.[92]

Individual citizens in states with large Indian populations still try to limit the power of Native voting. However, most observers agree with Deloria and Lytle who stated in 1993 that "the major problems that formerly frustrated Indians in their right to vote have been largely overcome." Deloria and Lytle cited language and reapportionment as two other critical components that reduce the amount of Native participation in nontribal elections. Indian elders who speak little or no English are often reluctant to go to the polls unless a bilingual person accompanies them, and reapportionment negatively affects the number of Indians who believe

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[90] For Chino, see Myla Vicenti Carpio and Peter Iverson, "'The Inalienable Right to Govern Ourselves': Wendell Chino and the Struggle for Indian Self-Determination in Modern New Mexico," in *New Mexican Lives: Profiles and Historical Stories*, ed. Richard W. Etulain (Albuquerque: University of New Mexico Press, 2002), 265-84. For Martin, see Benton R. White and Christine Schultz White, "Phillip Martin/Mississippi Choctaw," in *The New Warriors: Native American Leaders Since 1900*, ed. R. David Edmunds (Lincoln: University of Nebraska Press, 2001), 195-210.

[91] Wilkins, *American Indian Politics*, 199.

[92] Suzanne E. Evans, "Voting," in *Encyclopedia of North American Indians: Native American History, Culture, and Life from Paleo-Indians to the Present*, ed. Frederick E. Hoxie (Boston: Houghton Mifflin, 1996), 658-60.

their vote counts. Deloria and Lytle made a useful distinction: "Reapportionment is not related to the denial of one's vote; rather it deals with the dilution of one's vote."[93]

Some western states have a long tradition of Indians serving in the legislature. Montana is a case in point. Dolly Cusker Akers was elected to the Montana House of Representatives in 1932 and 20 American Indians have served in the legislature since then.

Half a century before, in 1948, Justice Levi Udall had articulated how suffrage "is the most basic civil right, since its exercise is the chief means whereby other rights may be safeguarded. To deny the right to vote, where one is legally entitled to do so, is to do violence to the principles of freedom and equality." A major goal for our country, he wrote, should be that individuals "are not only born equal but remain equally worthy . . . that no person's interests and needs are more important than anyone else."[94]

[93] Deloria and Lytle, *American Indians,* 226.

[94] *Harrison et al. v. Laveen*, 459; Keyssar, *The Right to Vote*, 324.

HISPANIC AND ASIAN AMERICAN VOTING RIGHTS, 1848-1975

The city clerk of San Bruno, California accepts absentee ballots of Japanese American evacuees during a state election, 1942. Library of Congress, Prints & Photographs Division [reproduction number: LC-USZ62-127898]

HISPANIC AND ASIAN AMERICAN VOTING RIGHTS[1]

Our nation has a long history of preventing some of its citizens from voting, most notably the Jim Crow laws enacted in the South after the Civil War to prevent African Americans from exercising their constitutional right to vote. Much has been written on the disenfranchisement of blacks in the South, but African Americans were not the only group that faced obstacles to exercising the franchise. Hispanics and Asian Americans also have a history of facing obstacles to political participation including literacy and language tests, poll taxes, discriminatory immigration and naturalization laws, and intimidation and violence.

The Voting Rights Act of 1965 that abolished most voting barriers faced by southern blacks also required that certain jurisdictions gain federal approval before adopting any voting laws or procedural changes to ensure that no one was excluded from voting based on color, race, or membership in a language minority group. The act gave the Federal government authority to enforce its provisions, thus giving minority groups a vehicle for challenging discriminatory election methods. Three years after the act was passed, the United States Commission on Civil Rights issued a report on the political participation of blacks in 10 southern states. There was no mention of Hispanics, Asian Americans, or Native Americans in the 256-page report.[2] Only in 1975, when the act was amended to include bilingual ballots for language minority groups, did Hispanics testify before House and Senate judiciary committees urging adoption of this provision. The amended act included Asian Americans as a language minority group entitled, like Hispanics, to bilingual ballots and voter registration in those jurisdictions where they constituted 5 percent or more of the voting-age population. However, Asian Americans did not appear before congressional committees until hearings in 1992 to extend Section 205, the bilingual balloting provision.

While voting was an important constitutional right for citizens of Hispanic and Asian descent, voting rights was not a major civil rights issue for either group between 1866 and 1965. Both groups targeted other areas that affected political participation such as school segregation, racial bars to citizenship, and discrimination in housing and employment. It was not until the passage of the Voting Rights Act in 1965 that these groups made political participation a major item on their civil rights agendas. This essay addresses Hispanic challenges to gain the right to vote and provides an overview of the difficulties Asian Americans faced in exercising their voting rights.

Hispanic American Voting Rights, 1848-1975

Since the mid-19th century, Anglos were politically aware of Mexicans in the South Texas counties. During the Texas constitutional convention in 1845, Anglos attempted and failed to exclude Mexicans from voting. In 1848, the signing of the Treaty of Guadalupe Hidalgo protected the rights of Mexicans who remained in the conquered territory and granted them U.S. citizenship if, after one year, they did not elect to retain their Mexican citizenship. At the turn of the century, Texas laws slowly disenfranchised Hispanics, although never as completely as African Americans since the Mexican population in the state was smaller than the black

[1] This essay was prepared by Neil Foley, associate professor of American Studies and History, University of Texas at Austin, with contributions by Susan Cianci Salvatore, preservation planner, National Park Service, National Historic Landmarks Program.

[2] United States Commission on Civil Rights, *Political Participation: A Study of the Participation by Negroes in the Electoral and Political Processes in 10 Southern States since Passage of the Voting Rights Act of 1965* (Washington, DC: GPO, 1968).

population, and therefore Mexicans were never seen as a threat.[3] Tejanos faced discrimination in certain Texas districts as American dominance continued to undermine Tejano political participation. After 1846, few served in state offices. Indeed, no Hispanic held federal office until 1960. One attempt to exclude Mexicans from voting came in 1896 in the case of *In re Rodriguez*.[4]

Ricardo Rodríguez filed his intention to become a citizen with the Bexar County clerk in San Antonio, Texas. Anglo attorneys filed suit to deprive Mexicans of their right to vote by making it impossible for Mexicans to become naturalized citizens. Thirty-five-year-old Rodríguez had immigrated from Guanajuato, Mexico, in 1883 and had settled in San Antonio. One of the attorneys described him as "a pure-blooded Mexican, having . . . dark eyes, straight, black hair, chocolate brown skin, and high cheek bones."[5] The Nationality Act of 1790 held that only "free white persons" were entitled to become naturalized citizens. After the Civil War and the enactment of the Fourteenth Amendment, the law was amended to include persons of African ancestry.[6] If the court ruled that Mexican immigrants of Indian ancestry were ineligible for citizenship, one-third of the Mexican voters of Bexar County would be disenfranchised.[7]

While courts had ruled on the ineligibility of Chinese, Hawaiians, and mixed-race Indians to become citizens, no court had ruled on the eligibility of Mexicans until the Rodríguez case in 1897.[8] Since no court decisions or departmental regulations had defined "Mexican race," inspectors on the U.S.-Mexico border generally listed light-skinned immigrants as belonging to the "Spanish race," and those with dark skin who appeared to be mixed with Indian ancestry as belonging to the "Mexican race." It was understood that "Spanish" was a marker of whiteness and that "Mexican" meant "mixed blood" or Indian.[9]

Court briefs on the Rodríguez case focused almost exclusively on the racial status of Mexicans who could not pass as "Spanish," which rendered them, like Asians and Indians, ineligible for citizenship. Judge Maxey of the federal district court, however, drew a distinction between tribal Indians living in the United States and Mexican citizens, regardless of their Indian heritage, desiring to become naturalized U.S. citizens, and he cited the terms of the Treaty of Guadalupe

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[3] Chandler Davidson, *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990* (Princeton: Princeton University Press, 1994), 235-36.

[4] Ibid., 236; "Tejano Politics," at http://www.tsha.utexas.edu/handbook/online/articles/view/TT/wmtkn.html, The Handbook of Texas Online, accessed on June 9, 2003.

[5] *In re Rodríguez,* 81 F. 337, 345 (1897).

[6] Naturalization Act of 1790, Chap. 3, Sec. I; Naturalization Rev. Stat. of 1870, Sec. 2169.

[7] Mexican immigrants were entitled to vote after filing their intention to become naturalized citizens. Arnoldo De León, *In Re Ricardo Rodríguez: An Attempt at Chicano Disenfranchisement in San Antonio, 1896-1897* (San Antonio: Caravel Press, 1979), 1-2.

[8] Other cases included *In re Ah Yup*, 1 F. Cas. 223 (1878), *In re Camille*, 6 F. 256 (1880), *In re Kanaka Nian*, 21 Pac. 993 (1889), *In re Saito*, 62 F. 126 (1894). See also Ian F. Haney López, *White by Law: The Legal Construction of Race* (New York: New York University Press, 1996), and Martha Menchaca, *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans* (Austin: University of Texas Press, 2001), 282-85.

[9] In addition to *In re Camille,* see *In re Burton*, 1 Alaska 111 (1900); *In re Para*, 269 F. 643 (1919); *Elk v. Wilkins*, 112 U.S. 94 (1884); and Paul S. Taylor, "Mexican Labor in the United States: Migration Statistics," *University of California Publications in Economics*, vol. 6 (Berkeley: University of California Press, 1929): 242-44.

Hidalgo. Maxey acknowledged that, "if the strict scientific classification of the anthropologist should be adopted, he [Rodriguez] would probably not be classed as white." However, Maxey ruled that regardless of Rodriquez's racial status "from the standpoint of the ethnologist," Mexican citizens were "embraced within the spirit and intent of our laws upon naturalization."[10]

The Rodríguez case was important because an immigrant's eligibility for citizenship—and therefore his right to vote—depended on his racial status as "white" or a "person of African ancestry." By ruling that Mexicans were eligible for citizenship the court was, in effect, ruling that Mexicans could be naturalized *as if* they were whites without actually having ruled one way or the other on the issue of Mexican racial status. For Hispanics, however, achieving virtually the same status as whites for the purpose of naturalization did not change their racialized status in Texas and elsewhere in the Southwest. Anglos regarded Hispanics as outsiders and foreigners; they did not fit the profile of an American with the constitutional right to exercise the franchise.

The ability for Hispanics to vote in Texas extended into the 20th century in the battle over the white primary. In 1902, Gonzales County Democrats excluded both blacks and Tejanos from their primaries. In 1914, Dimmit County formed the White Man's Primary that excluded Mexicans from nominating county candidates, but granted them the right to vote after the nomination process. Thus, Tejanos could either not vote or register a manipulated vote. Other white primaries during the 1920s to 1940s that restricted both blacks and Hispanics from exercising their right to the franchise included the White Man's Union in four South Texas counties, a White Man's party in Duval County (since 1892), and the White Man's Union Association in Wharton County. To further limit Hispanic voting, the Texas legislature passed a bill in 1918 prohibiting interpreters at the polls, a chore made doubly difficult to overcome with segregation and discrimination of Tejanos in public schools.[11]

In addition to a language barrier, many Hispanics could not pay poll taxes or pass literacy tests. Literacy tests served the same purpose in the Southwest as they did in the Deep South: to allow election officials the instrument by which to exclude African Americans and Hispanics from political participation. When registration, poll taxes, and literacy tests were made illegal, many jurisdictions resorted to racial gerrymandering in order to divide the minority vote to prevent their preferred candidates for winning elections.

Low Hispanic voter turnout throughout the 20th century led Hispanic civil rights groups to encourage more voter participation. Two such groups included the League of United Latin American Citizens (LULAC) formed in 1929 by the coalition of World War I self-help groups, and the American GI Forum founded by World War II veterans in 1948. In the 1950s, the forum assisted thousands in registering to vote in the Rio Grande valley. The forum became a national organization in 1958 and two years later worked with LULAC in the Viva Kennedy campaign to help win Texas and New Mexico for John F. Kennedy.[12] The Viva Kennedy club movement represented a new era for Hispanics in Texas politics and the first statewide partisan organization

[10] *In re Rodríguez*, 354-55.

[11] Davidson, *Quiet Revolution in the South*, 236-37; "White Primary," at http://www.tsha.utexas.edu/handbook/online/articles/view/WW/wdw1.html, The Handbook of Texas Online, accessed on June 9, 2003.

[12] "American GI Forum of Texas," at http//:www.tsha.utexas.edu/handbook/online/articles/view/AA/voz1.html, The Handbook of Texas Online, accessed on June 9, 2003.

of Hispanics in Texas. Hispanics supported the 1960 Democratic National Convention civil rights platform that included voting rights followed by the Viva Johnson clubs in 1964. Overall, the "movement brought greater political participation among Hispanics, including increased voter registration, more Hispanic candidates, the election of Hispanic officials, and the beginning of national electoral campaigns for the Hispanic vote."[13]

Puerto Rican Voting Rights

The history of voting rights for Hispanics nationally is different for each group, but particularly for Puerto Ricans. For example, Puerto Ricans were given U.S. citizenship when Congress passed the Jones Act in 1917, but it came with certain restrictions: Puerto Ricans do not pay U.S. income taxes and can vote in the presidential primaries but not in the general election. This restriction has been challenged in recent court cases, but the Federal government has argued that Puerto Rico, which became part of the United States in 1898 when Spain surrendered it, has two methods of gaining the vote for its citizens. It could become a state or, like the District of Columbia, Congress could pass a constitutional amendment. In regard to the latter, an amendment "would grossly dilute the votes of its people" since the number of electors for Puerto Rico's 3.8 million people could not exceed that of the least populous state. Beyond Puerto Rico's continued status as a commonwealth and the limitations to the franchise imposed by this status, the main voting rights issue for Puerto Ricans stateside are the questions of bilingual balloting and registration, and redrawing district lines to dilute the Hispanic vote.[14]

Voting Rights Act Amendment of 1975

Even though the Voting Rights Act of 1965 removed some barriers to voting, Hispanics, especially in South Texas and parts of California, still faced harassment and intimidation at the polls. It was the testimony of Hispanics on the lingering discrimination they faced that convinced the House and Senate judiciary committees in 1975 to extend protection of the Voting Rights Act to language minorities. The 1975 amended act included Hispanics as a language minority group entitled to bilingual ballots and voter registration in those jurisdictions where they constituted 5 percent or more of the voting-age population. This worked well for Hispanics who formed well over 5 percent of hundreds of jurisdictions throughout the Southwest and in urban areas of the Midwest and the East. As political scientists Rodolfo de la Garza and Louis DeSipio described, "general overt discrimination, particularly in Texas, seems to have earned *Latinos nationwide* [emphasis added] the special protection extended to blacks ten years before."[15]

Leonel Castillo, city controller of Houston, Texas, gave examples in 1975 of the kinds of bureaucratic intimidation Hispanics faced at the polls in his testimony before the House Judiciary

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[13] "Viva Kennedy-Viva Johnson Clubs," at http://www.tsha.utexas.edu/handbook/online/articles/view/VV/wcv1.html, The Handbook of Texas Online, accessed on June 9, 2003.

[14] Jose D. Roman, "Puerto Rico and a Constitutional Right to Vote," at http://academic.udayton.edu/race/02rights/citizen01.htm, accessed on September 22, 2009. For a history of Puerto Ricans in New York, see Virginia E. Sánchez Korrol, *From Colonia to Community: The History of Puerto Ricans in New York City* (Berkeley: University of California Press, 1994).

[15] Rodolfo O. de la Garza and Louis DeSipio, "Save the Baby, Change the Bathwater, and Scrub the Tub: Latino Electoral Participation after Seventeen Years of Voting Rights Coverage," 71 U*niversity of Texas Law Review* 7: 1479-1539, quote on 1484 (1993).

Committee on the extension of the Voting Rights Act. He spoke of the absence of literacy tests and poll taxes, armed law enforcement officials that were dispatched to polling places for the sole purpose of intimidating Hispanic voters, and "excessive demands for personal identification required of Mexican American voters." Government agencies, such as the Border Patrol and the celebrated Texas Rangers, have had an especially negative impact on the political participation of Hispanic. Castillo remarked that even with the protections afforded by the Voting Rights Act after 1965, "The atmosphere surrounding these elections was tense and hostile."[16]

How voter registration was organized also affected a person's ability to vote. In Texas, for example, voters were required to register with the county tax assessors who were responsible for collecting the poll tax. For Hispanics, this meant a visit to the county courthouse, which would have been inconvenient for those without cars, and threatening to those for whom the courthouse was the feared symbol of Anglo governmental authority. Election officials also denied assistance to non-English-speaking or illiterate Hispanics and often denied migrant laborers the right to vote by absentee ballot. Hispanics who testified in 1975 before the U.S. Senate and House Judiciary Committees stated how they continued to face barriers to voting even after the passage of the Voting Rights Act. These barriers included lengthy residential requirements, English-only registration and balloting requirements, and the long history of manipulation of the Hispanic vote by Anglo political machines.[17]

Asian American Voting Rights, 1878-1975

Throughout the history of the United States, Asian immigrants have been subjected to discriminatory laws that restricted immigration from Asia, rendered Asians ineligible for citizenship, and made it illegal for them to own land or any other real estate. The single greatest barrier to Asian American political participation was the racial requirement that only "free whites" could become naturalized citizens and therefore voting members of the polity. After the Civil War and the enactment of the Fourteenth Amendment, Congress amended the Nationality Act of 1790 to allow "aliens of African nativity and persons of African ancestry" to become citizens. However, it rejected attempts to make Chinese immigrants eligible for citizenship and retained the racial bar against naturalizing non-white immigrants. The bar against naturalizing Chinese immigrants was upheld in the 1878 federal case *In re Ah Yup*. Congress went a step further in enacting the Cable Act in 1922, which stipulated that "any woman citizen who marries an alien ineligible to citizenship shall cease to be a citizen of the United States." Since citizenship derived in part from the status of the husband, the government could revoke the citizenship of any citizen woman who married a person ineligible for citizenship, such as Asian immigrants.[18]

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[16] U.S. Congress. Senate Committee on the Judiciary, Subcommittee on Constitutional Rights. *Extension of the Voting Rights Act of 1965*. 94th Cong., 1st sess., 1975, 741-42. On Hispanic electoral participation in the years following the Voting Rights Act, see de la Garza, "Save the Baby."

[17] For a history of the manipulation of the Hispanic vote in Texas see Evan Anders, *Boss Rule in South Texas: The Progressive Era* (Austin: University of Texas Press, 1982); and O. Douglas Weeks, "The Texas-Mexican and the Politics of South Texas," *American Political Science Review* 24 (August 1930). Political machines in south Texas, for example, manipulated the Mexican vote to give Lyndon Johnson his narrow victory in the 1948 Senate race. See Robert A. Caro, *The Years of Lyndon Johnson* (New York: Knopf, 1982), 310-17.

[18] Angelo N. Ancheta, *Race, Rights, and the Asian American Experience* (New Brunswick, NJ: Rutgers University Press, 2000), 23-24; *In re Ah Yup*, 1 F. Cas. 223 (1878).

The ineligibility of Asian immigrants to become citizens formed the basis for enacting alien land laws that forbade them from owning property, aimed primarily at Asian farmers seeking to own their own farms. In 1882, the nation passed its first immigration restriction law to bar the immigration of Chinese to the United States, followed in 1907 by the Gentleman's Agreement to limit immigration from Japan. Faced with immigration restriction, ineligibility for citizenship, and prohibition against property ownership, Asian immigrants maintained a status of being permanently "alien" and stripped of fundamental constitutional rights accorded even to non-citizens. Nevertheless, Asian non-citizens won an important discrimination case in 1886 when the Supreme Court, in *Yick Wo v. Hopkins*, struck down a San Francisco ordinance prohibiting laundry operations constructed of wood. Non-Chinese laundry operators (including those with wooden structures) received license renewals to operate in violation of the ordinance, but it was strictly enforced against Yick Wo and over 200 other Chinese laundry operators, many of whom had been in operation for over 20 years. Yick Wo filed suit, and the Supreme Court ruled that the ordinance violated the equal protection clause of the Fourteenth Amendment since the ordinance was clearly aimed at Chinese operators: "No reason . . . exists except hostility to the race and nationality to which the petitioners belong, and which in the eyes of the law is not justified."[19]

From 1870 to 1952 courts across the nation, including the Supreme Court, ruled on which immigrant groups were "white" based on "scientific evidence" and "common knowledge" in deciding who was eligible for naturalization.[20] The racial restrictions on naturalization eventually cast doubt on the birthright citizenship of Asian Americans, which was guaranteed by the Fourteenth Amendment (persons born in the United States are citizens, regardless of the legal status of their parents). For example, when the U.S.-born son of Chinese immigrants living in the United States, Wong Kim Ark, attempted to return to the United States after having visited his family in China in 1895, he was detained and prevented from entering the country on the grounds that he was not an American citizen. The issue was resolved in 1898 when the Supreme Court ruled in *United States v. Wong Kim Ark* that even those born to parents ineligible to citizenship were nevertheless U.S. citizens: "The Fourteenth Amendment affirms the ancient and fundamental rule of citizenship by birth . . . including all children born of resident aliens."[21] While the courts upheld the citizenship status of Asian Americans, whites—and even many blacks—questioned the "Americanness" of Asian Americans and regarded them as aliens and foreigners.

Congress gradually removed the racial bars to naturalization, first for the Chinese in 1943 (since China was an ally against Japan during World War II). In 1946, Asian Indians and Filipinos were allowed to naturalize. In 1950, the racial restriction was lifted for those from Guam, and in 1952, 162 years after the passage of the Nationality Act of 1790, Congress eliminated racial bars to naturalized citizenship for Japanese and other Asian immigrants.[22]

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[19] Ancheta, *Asian American Experience*, 28-29; *Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

[20] Ian F. Haney López, *White by Law: The Legal Construction of Race* (New York: New York University Press,1996), 3-19.

[21] Ancheta, *Asian American Experience*, 23; *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

[22] Letti Volpp, "'Obnoxious To Their Very Nature': Asian Americans and Constitutional Citizenship," *Citizenship Studies* 5 (February 2001): 58-59.

Perhaps no other law has had a greater impact on the Asian American community than the passage of the Immigration and Nationality Act of 1965. Prior to 1965, Asians were either barred from immigrating to the United States or limited by quotas established by the Immigration Act of 1924. The civil rights activism that led to the passage of the Voting Rights Act in 1965 also contributed to the passage of this milestone in immigration history that abolished the national origins quotas established in 1924 and created a new set of categories based on family reunification and professional skills. One of the unforeseen consequences of this act has been the unprecedented immigration from Asia and Latin America in the decades following its passage.[23]

Other reforms followed in the years after World War II. In 1948 the U.S. Supreme Court held in *Oyama v. California* that California's Alien Land Act, aimed at denying Asian immigrants the right to own property, was unconstitutional. In the same year, the California Supreme Court ruled in *Perez v. Sharp* that anti-miscegenation laws prohibiting whites from marrying non-whites was unconstitutional. In 1952 the McCarran-Walter Act removed the racial bar to naturalization, and 10 years after the enactment of the Voting Rights Act of 1965, Congress voted to extend and amend the act to include protection for language minority groups when they account for 5 percent of the voting-age population of any jurisdiction.[24]

There are a number of reasons why Asian Americans had not been involved in voting rights litigation in the passage of the Voting Rights Act or in the hearings leading to the 1975 amendment on language minority groups. According to civil rights attorney Angelo Ancheta, the population of Asian Americans within a given jurisdiction rarely forms a numerical majority. In states such as California and New York that have major concentrations of Asian Americans, the number of voting-age citizens "forms a much smaller percentage of the large number of Asian immigrants." In addition, the Asian American population tends to be more geographically dispersed than other minority groups, which tends to dilute their voting strength and therefore the possibility of electing their preferred candidates. Finally, the Asian American population is composed of many diverse ethnic groups that may have different party affiliations.[25]

As with Hispanics, voting rights were never directly the focus of civil rights activism for Asian American civil rights groups before 1965. The goals of civil rights groups, such as the Japanese American Citizenship League, the Chinese American Citizens Alliance, and the Asian American Legal Defense and Education Fund (AALDEF) included "equal protection" in employment, education, and housing, and the repeal of exclusion laws and racial bars to naturalized citizenship. Having achieved most of these goals, current Asian American civil rights organizations, especially AALDEF, are seeking to increase Asian American voter registration and participation.[26]

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[23] Mae M. Ngai, "The Architecture of Race in American Immigration Law: A Re-examination of the Immigration Act of 1924," *Journal of American History* 86 (June 1999): 67-92; Erika Lee, *At America's Gates: Chinese Immigration during the Exclusion Era, 1882-1943* (Chapel Hill: University of North Carolina Press, 2003), 246-47.

[24] *Oyama v. California*, 332 U.S. 633 (1948); *Perez v. Sharp*, 32 Cal. 2d 711, 198 P. 2d (Cal. 1948).

[25] Ancheta, *Asian American Experience*, 143.

[26] See also, Sue Fawn Chung, "Fighting for Their American Rights: A History of the Chinese American Citizens Alliance," in *Claiming America: Constructing Chinese American Identities during the Exclusion Era*, ed. K. Scott Wong and Sucheng Chan (Philadelphia: Temple University Press, 1998), 95-126.

The use of English-only ballots historically prevented language minority groups such as Asian Americans from greater voter participation. When Congress amended the Voting Rights Act in 1975 (and again in 1982) to provide bi-lingual registration forms and election ballots in those jurisdictions where the language minority constitutes at least 5 percent of the voting-age population, Asian Americans often could not satisfy the 5 percent minimum. Even where Asian Americans constituted over 5 percent, often they did not constitute a single-language minority group. Unlike most Hispanics who, regardless of nationality, speak Spanish, Asian Americans comprise a diverse group of nationalities and languages. In other words, Asian Americans often did not satisfy the minimum of 5 percent for a single-language minority group and thus could not claim the status of a "language minority" under the terms of the amendment. [27]

Finally, it is not always clear what is meant by the "Asian American vote" because so few studies have been conducted across the various ethnicities and the ways in which voting patterns and party affiliations are linked to ethnicity and generation. What is clear is that the balance has shifted in the Asian American political world, with immigrant Asians now outnumbering U.S.-born Asian Americans, which has had the effect of reducing the overall percentage of Asian-descent voter participation.[28]

The legacy of discriminatory policies and the pervasive idea of Asian Americans as foreigners are still strongly felt today, resulting in distressingly low Asian American political participation. In New York, which boasts the nation's second largest Asian American population at more than 800,000, there has never been an Asian American elected to city-wide, state-wide or national office until John Liu's election to the City Council in 2001. The stereotype of Asian Americans as a model minority has obscured the continuing barriers that prevent Asian Americans from participating effectively as candidates or as voters.[29]

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[27] Robert S. Chang, *Disoriented: Asian Americans, Law, and the Nation-State* (New York: New York University Press, 1999), 88; Ancheta, *Asian American Experience*, 143.

[28] Two-thirds of all Asian-descent Americans are immigrants. See Paul M. Ong and David E. Lee, "Changing of the Guard? The Emerging Immigrant Majority in Asian American Politics," in *Asian Americans and Politics: Perspectives, Experiences, Prospects*, ed. Gordon H. Chang (Washington, DC: Woodrow Wilson Center Press; Stanford, CA: Stanford University Press, 2001), 153-72.

[29] "Voting Rights," at http://www.aaldef.org/voting.html, Asian American Legal Defense and Education Fund, accessed on May 21, 2003.

NATIONAL HISTORIC LANDMARKS REGISTRATION GUIDELINES

In the *Historical Dictionary of the Civil Rights Movement*, author Ralph Luker writes, "The movement captured the nation's attention episodically; it retains it relentlessly."[1] From the perspective of the National Historic Landmarks Program, civil rights episodes that caught the nation's attention and remain engrained today may be associated with exceptionally important places that altered American race relations. While many individuals, organizations, and institutions played a role in the history of civil rights at the local and state levels, a comparatively few made an exceptionally significant national impact on American civil rights history.

National Historic Landmarks designated under the *Racial Voting Rights* theme study must be acknowledged to be among the nation's most significant properties associated with the constitutional right to vote between 1865 and 1965. This period begins with the advent of emancipation and Reconstruction, and ends when the Voting Rights Act gave the Federal government authority to enforce voting rights. Nationally significant associations and a high degree of integrity are the thresholds for designation. A property must have a direct and meaningful documented association with an event or individual and must be evaluated against comparable properties associated with the same theme before its eligibility for landmark designation can be confirmed.

Criteria of National Significance

National Historic Landmarks criteria (*Code of Federal Regulations*, Title 36, Part 65.4 [a and b]) are used to assess whether properties are nationally significant for their association with important events or persons. According to the criteria, the quality of national significance can be ascribed to districts, sites, buildings, structures, and objects that:

- possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering, and culture and
- possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association; and:

Criterion 1: Are associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or

Criterion 2: Are associated importantly with the lives of persons nationally significant in the history of the United States; or

Criterion 3: Represent some great idea or ideal of the American people; or

Criterion 4: Embody the distinguishing characteristics or an architectural type specimen exceptionally valuable for the study of a period, style, or method of construction, or that represent a significant, distinctive, and exceptional entity whose components may lack individual distinction; or

[1] Ralph E. Luker, *Historical Dictionary of the Civil Rights Movement* (Lanham, MD: Scarecrow Press, Inc., 1997), vii.

Criterion 5: Are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity or exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or

Criterion 6: Have yielded or are likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation of large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts, and ideas to a major degree.

Because the history of civil rights is associated with events and individuals, National Historic Landmarks designated under the *Racial Voting Rights* context will be eligible under Criteria 1 (events), 2 (individuals), and rarely together with 3 (ideal) as described below.

Criterion 1

National Historic Landmarks Criterion 1 recognizes properties associated with events important in the broad national patterns of U.S. history. These can be specific one-time events or a pattern of events that made a significant contribution to the development of the United States. This study uses the patterns of events identified in the National Park Service's *Civil Rights in America: A Framework for Identifying Significant Sites* (2002, rev. 2008). For African Americans these patterns of events include: 1) Reconstruction and Repression, 1865-1900; 2) Rekindling Civil Rights, 1900-1941; 3) Birth of the Civil Rights Movement, 1941-1954; and 4) The Modern Civil Rights Movement, 1954-1964. For American Indians, two out of four identified patterns of events include voting rights history: 1) the Assimilation and Allotment Era, 1871-1934, and 2) the Termination Era, 1945-1960. Places associated with these eras and voting rights discrimination may be exceptional at the national level for having made a significant contribution to transitions in American politics and race relations. Such places most often directly contributed to the interpretation of the U.S. Constitution, passage of federal legislation, intervention by the Executive Branch, and nonviolent strategy by grassroots organizations to gain voting rights. An overview of important developments and milestones in the above eras and how an associated property may have national significance are described below.

African American Eras:

1) Reconstruction and Repression, 1865-1900

This period witnessed an array of legislative acts and judicial rulings that first empowered, but ultimately repressed, the southern black vote. During Reconstruction a Republican Congress paved the way for black enfranchisement. The 1867 Military Reconstruction Acts required 10 former Confederate States to adopt constitutions guaranteeing suffrage to African Americans. The Fifteenth Amendment, adopted in 1870, guaranteed citizens the right to vote regardless of race, and the Enforcement Act of 1870 made it a crime for public officers and private persons to deny one's right to vote. Following Reconstruction, political and judicial constraints diminished the black right to the ballot box in the South as the Democratic Party came into control. U.S. Supreme Court decisions hampered congressional authority to enforce the Civil War Amendments (*Civil Rights Cases,* 1883) and prohibited the Justice Department from prosecuting private persons for civil rights violations under the Enforcement Acts (*U.S. v. Cruikshank*, 1876), thus eliminating the Federal government's legal strategy for fighting white segregationist violence against African Americans. In addition, white segregationist violence played a

prominent role in deterring black voter registration. Other methods to restrict black voters emerged because the Fifteenth Amendment only banned discrimination based on race. Beginning in 1890, southern states used non-racial qualifications as a basis for voter registration in literacy tests, poll taxes, secret ballots, and grandfather clauses. These methods would prove devastating to African American political freedom for decades to come. Of these methods, the U.S. Supreme Court sanctioned literacy tests (*Williams v. Mississippi*, 1898).

A property associated with an event from this era may be eligible under Criterion 1 if the event made a significant contribution to:

- Interpreting the constitutionality of the Federal government's ability to prosecute private individuals for civil rights infractions.
- Interpreting the constitutionality of voter discriminatory tests and restrictions that initiated an era in which states excluded blacks from the ballot box.

2) Rekindling Civil Rights, 1900-1941

Blacks in this era experienced ongoing disenfranchisement. Southern states continued to use non-racial qualification tools except for the grandfather clause which the U.S. Supreme Court struck down in 1915 (*Guinn v. United States*). Another prominent legal battle that lasted almost three decades took place between Texas and the U.S. Supreme Court over the "white primary." With the Democratic Party dominating southern politics, a Democratic primary victory was essential. To ensure a victory, white Texas Democratic officials excluded blacks from their primaries. U.S. Supreme Court rulings and counteractions by the Texas Democratic Committee kept blacks out of southern politics until 1944. Meanwhile, in the North, a key partisan realignment of the black electorate took place in the 1930s. In the 1936 presidential election, the majority of northern black voters abandoned the Republican Party of Abraham Lincoln and supported the Democratic Party of Franklin Roosevelt.[2] This shift would help reshape the political landscape of the nation and lead to the enfranchisement of African Americans.

A property associated with an event from this era may be eligible under Criterion 1 if the event made a significant contribution to:

- Interpreting the constitutionality of the grandfather clause, thus eliminating a voting regulation that deprived African Americans of the right to vote and beginning an era of challenges to voter restrictions.
- Interpreting the constitutionality of restrictions that kept Democratic primaries in the South open only to whites.

3) Birth of the Civil Rights Movement, 1941-1954

As World War II's "Double V" campaign broadened African American expectations for full democratic rights, civil rights activists and the NAACP made significant legal strides. In 1944, the U.S. Supreme Court outlawed the Texas "white primary" (*Smith v. Allwright*) based on an earlier case (*United States v. Classic,* 1941) that found Congress could regulate both primary and

[2] Harvard Sitkoff, *A New Deal for Blacks: The Emergence of Civil Rights as a National Issue* (New York: Oxford University Press, 1978), passim; Nancy Weiss, *Farewell to the Party of Lincoln: Black Politics in the Age of FDR* (Princeton: Princeton University Press, 1983), passim.

general elections for federal office. Thereafter, methods for blocking the black vote were aimed at individuals rather than groups. In Congress, activists waged an unsuccessful campaign to outlaw the poll tax, but succeeded in keeping the civil rights struggle at the forefront of American politics.

A property associated with an event from this era may be eligible under Criterion 1 if the event made a significant contribution to:

- Interpreting the constitutionality of tactics used to disqualify blacks from voting in federal elections that removed a major obstacle to African American enfranchisement in Southern elections.

4. The Modern Civil Rights Movement, 1954-1965

For the first time since Reconstruction, the Executive Branch under President Eisenhower produced major civil rights legislation. Under the Civil Rights Acts of 1957, the Attorney General gained the right to seek injunctions against either public or private interference with the right to vote based on racial grounds, and the Civil Rights Act of 1960 authorized federal judges to appoint referees to hear testimony on whether state officials interfered with the right to register or vote. Although the acts proved ineffective in curing voter discrimination, renewed black voter interest by national grassroots organizations created programs and campaigns that would force the federal intervention needed to overcome southern massive opposition and gain voting rights under the Constitution. Registration drives and a citizenship education program organized by the Southern Christian Leadership Conference (SCLC) and the Student Nonviolent Coordinating Committee (SNCC) in the South taught voting procedures, economic rights, and African American history.

From 1961 to 1964, political activity associated with voting rights gained prominence in the nation. The Kennedy administration supported the Voter Education Project (VEP), a campaign aimed at gaining voting rights through the courts, rather than in the streets, where disruptive violence reflected poorly on American democracy. Started in 1962 and run by the Southern Regional Council (headquartered in Atlanta), the campaign produced uneven results with Mississippi having the worst record. After VEP could no longer fund projects in Mississippi, that state became the focus of the civil rights movement's efforts to spotlight black disenfranchisement and pressure Washington into providing relief.

An umbrella group under the banner of the Council of Federated Organizations (COFO), guided mainly by SNCC and the Congress on Racial Equality (CORE), launched the Freedom Vote, the first of three events in Mississippi that made significant contributions to the voting rights movement. In the 1963 Freedom Vote, 80,000 blacks participated in a mock vote pitting actual candidates against candidates from the newly formed interracial Freedom Party. The success of the freedom vote led to Freedom Summer in 1964, directed by COFO, when hundreds of northern college students trained in Oxford, Mississippi, to assist in the voting campaign. The campaign also fought against the exclusion of blacks in Mississippi by forming the Mississippi Freedom Democratic Party (MFDP) as an alternative to the state's all-white Democratic Party. The MFDP challenged the seating of the all-white regular delegation to the 1964 Democratic National Convention (DNC), showing that blacks could have political power. Lastly, in Alabama, the 1965 Selma to Montgomery march capped the voting rights movement and influenced congressional passage of the Voting Rights Act of 1965.

Other significant events occurred at the executive and judicial levels. At the judicial level in 1960, the U.S. Supreme Court outlawed gerrymandering, the practice of redrawing district lines to exclude certain voters (*Gomillion v. Lightfoot*). At the executive level in 1964, President Johnson ordered the otherwise recalcitrant FBI to investigate the murder of three civil rights workers: Michael Schwerner, James Chaney, and Andrew Goodman.

A property associated with an event from this era may be eligible under Criterion 1 if the event made a significant contribution to:

- Implementing critical aspects of SCLC's Citizenship Education Program, the Freedom Vote of 1963, Freedom Summer of 1964, or the MFDP that proved pivotal to national reform.
- Interpreting the constitutionality of federal intervention in state redistricting.
- Prompting a turning point for federal investigation of segregationist violence against civil rights workers that garnered national and international attention.
- Directly influencing the passage of the Voting Rights Act of 1965.

American Indian Eras

1) Assimilation and Allotment Era, 1871-1934

During this era, the right to vote became entangled in the federal policy of assimilating Indians into the mainstream of society and the issue of whether Indians could be U.S. citizens. Assimilation first began in 1871 when Congress removed sovereign nation status from tribes, but failed to award Indians with U.S. citizenship. Thus Indians were subjected to U.S. law without the rights of citizenship. Later in 1884, the U.S. Supreme Court ruled that the Fourteenth Amendment that granted citizenship to persons born or naturalized in the United States, did not grant U.S. citizenship to Indians because they had been born on tribal land rather than in the United States. Campaigns conducted by alarmed Indian reformers ended in the passage of the Dawes Act of 1887 whereby individual Indians who received allotted parcels of tribal land became citizens. Eventually all Indians became U.S. citizens under the 1924 Snyder Act. States that feared political control by Indian majorities then adopted stringent restrictions to block from voting those American Indians who were not taxed, maintained tribal relations, lived on reservations, or were "under guardianship."

A property associated with an event from this era may be eligible under Criterion 1 if the event made a significant contribution to:

- Interpreting the constitutionality of the right to vote for American Indians to vote throughout the country.

2) Termination Era, 1945-1960

During the termination era, Congress sought to absolve the trust relationship between the national government and Indian tribes, and to turn Indian affairs over to the states. Afterwards, some states still refused Indians the right to vote, a refusal that came under increasing attack by American Indian veterans and the Federal government. In 1947, President Truman's Committee on Civil Rights declared discriminatory a 1928 Arizona Supreme Court ruling that found Arizona Indians were "under guardianship" according to the state constitution and therefore

ineligible to vote. Twenty years later, the Justice Department, the Department of Interior, and national organizations joined to see the decision overturned by the Arizona Supreme Court.

A property associated with an event from this era may be eligible under Criterion 1 if the event made a significant contribution to:

- Attaining direct federal and organizational support crucial to gaining American Indians the right to vote.

Criterion 2

In order to be designated a National Historic Landmark under Criterion 2, a property must be associated with an individual who played a critical role within the *Racial Voting Rights* context. The individual must have made nationally significant contributions that can be specifically documented and that are directly associated with both the racial voting rights context and the property being considered. To determine a definitive national role, it is necessary to compare the individual's contributions with the contributions of others in the same field. General guidance for nominating such properties is given in National Register Bulletin 32: *Guidelines for Evaluating and Documenting Properties Associated with Significant Persons*.

A person whose associated property may be eligible under Criterion 2 may include an individual who:

- Led the effort to overturn voting rights obstacles with the legislative and executive branches that kept civil rights at the national forefront.

- Formulated citizenship classes across the South that significantly increased voter enrollment or highly influenced a national voting rights agenda.

- Can be documented as a preeminent leader in the voting rights movement or an activist whose leadership was a major factor in establishing or making successful the southern civil rights strategy that directly led to national reform.

Criterion 3

This criterion requires the most careful scrutiny and would apply only in rare instances involving ideas and ideals of the highest order in the history of the United States. The concept of the right to vote is a primary ideal of the American people implicit in a Democratic society. In voting rights this would apply to properties that directly led to congressional acts and achieved an individual's constitutional guarantee to vote regardless of race.

A property associated with an event from this era may be eligible under Criterion 3 if the event made a significant contribution to:

- Directly influencing the Executive Branch's decision to move forward with civil rights legislation and inspiring Congress to pass the Voting Rights Act of 1965.

National Historic Landmark Exceptions

Certain kinds of property are not usually considered for National Historic Landmark designation including religious properties, moved properties, birthplaces and graves, cemeteries, reconstructed properties, commemorative properties and properties achieving significance within the past fifty years. These properties can be eligible for listing however, if they meet special

requirements called NHL exceptions. The following exceptions may be anticipated in voting rights properties:

Exception 1: Many **religious properties** are associated with the African American civil rights movement as gathering places. To be eligible for consideration, churches must derive their primary national significance from their roles in the movement as meeting places.

Exception 4: A **birthplace, grave, or burial** would be considered for designation if it is for a historical figure of transcendent national significance and no other appropriate site, building, or structure directly associated with the productive life of that person exists.

Exception 8: A portion of the modern civil rights movement occurred within the last fifty years. Normally, **a property that has achieved national significance within the last fifty years** is not eligible for National Historic Landmark designation. However, some events of this time period may have made these properties of extraordinary national importance and therefore eligible for National Historic Landmark designation.

Integrity

Properties considered for National Historic Landmark designation must be associated with one of the National Historic Landmark criteria and must meet any National Historic Landmark exceptions. In addition, the property must retain a high degree of integrity. Integrity is defined as the ability of a property to convey its significance. The seven aspects or qualities of integrity are: location, design, setting, materials, workmanship, feeling, and association. All properties must retain the essential physical features that define both *why* a property is significant (criteria and themes) and *when* it was significant (periods of significance). These are the features without which a property, such as an early 20th century church or courthouse, can no longer be identified. For National Historic Landmark designation, properties must possess these aspects to a high degree. The following is a description of the aspects of integrity and special issues that may be anticipated with voting rights properties.

Location is the place where the historic property was constructed or the historic event occurred. It is not anticipated that any voting rights property has been moved, however, if this is the case, it is highly unlikely that the property would be eligible for consideration.

Design is the combination of elements that create the historic form, plan, space, structure, and style of a property. This includes such elements as organization of space, proportion, scale, technology, ornamentation, and materials. In evaluating integrity of design, discern whether changes over time altered the design associated with the historical significance of the particular property. Take into account the significance of the property and whether it can still convey the event for which it is important. Voting rights properties should retain their floor plans and design elements that evoke their historic function such as a meeting space, training facility, or voter registration place. Discretion should be used to evaluate whether a rehabilitated building still reflects the original use of the building. In the case of protest marches, open space used in demonstrations must be able to convey how the space was used during the event for which the property is significant.

Setting is the physical environment of a historic property. For voting rights properties, settings associated with a march route or around a courthouse may have changed over time. In

evaluating the integrity of setting, consider the significance of the individual property and whether the setting is important in interpreting that significance. For instance, the setting around a building will be more important for a protest that occurred outside than for an attempt to register that occurred inside.

Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property. Rehabilitation of buildings over time may have altered materials from those present during the associated event. A property must retain the key materials dating from its period of significance to be considered for National Historic Landmark designation. If a property has been rehabilitated, the historic materials and significant features must have been preserved.

Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history. This element is most often associated with architecturally important properties. However, it is also of importance to voting rights properties for illustrating a time period associated with an event.

Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. With regard to voting rights properties, integrity of feeling may be associated with the concept of retaining a "sense of place." For example an early 20th century Masonic hall that retains its original design, materials, workmanship and setting will relate the feeling of its time and culture.

Association is the direct link between an important historic event or person and a historic property. A property retains association when it is the actual place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. In voting rights this will be where protests, meetings, training, and discrimination incidents occurred.

Evaluation Against Comparable Properties

Finally, each property being considered for National Historic Landmark designation must be evaluated against other comparable properties bearing a similar nationally significant association. Comparing individual properties associated with the same event provides the basis for determining which sites have an association of exceptional value or quality in illustrating or interpreting the history of discrimination in racial voting rights.

METHODOLOGY

Creating the Context

The National Park Service partnered with the Organization of American Historians and contracted with scholars having expertise in African American, Native American, Hispanic, and Asian American history. These scholars produced a chronological story of how these racial groups experienced the struggle to gain voting rights. Essays were prepared in sufficient depth to support the relevance, relationships and the national importance of places to be considered for National Historic Landmark designation based on the following aspects:

- economic, social, judicial, and political forces related to the topic,
- significance of individuals and events crucial or definitive to the story,
- places associated with these individuals and events, and
- how this story affected people in their everyday lives.

Inventory Search for Sites Recognized as Historically Significant

A list of existing National Historic Landmarks associated with voting rights was compiled using the inventory contained in *National Landmarks, America's Treasures: The National Park Foundation's Complete Guide to National Historic Landmarks* (2000) by Allen S. Chambers Jr., under the topic of civil rights. African American properties listed in the National Register were located using the inventory contained in *African American Historic Places* (1994) edited by Beth L. Savage under the topic of civil rights. National Park Service units were identified in the U.S. Department of the Interior's, *The National Parks: Index 1997-1999*, and the National Park Service's, *Selma to Montgomery Historic Trail Study*: *A Study of the Voting Rights March of 1965* (1993).

Major Sources

National Park Service staff gained additional perspectives and scholarly opinions to evaluate properties through intensive research of secondary and primary sources. For general overviews, Ralph E. Luker's *The Historical Dictionary of the Civil Rights Movement* (1997) and Mark Grossman's *The ABC-CLIO Companion to the Civil Rights Movement* (1993) provided capsule summaries of individuals, cases, and events from the post civil war period to the mid-1960s. Information on the Student Nonviolent Coordinating Committee's work in Mississippi was gleaned primarily through Clayborne Carson's *SNCC and the Black Awakening of the 1960s* (1981), Taylor Branch's two works on Martin Luther King entitled, *Parting the Waters* (1988) and *Pillar of Fire* (1998), and Eric R. Burner's *And Gently He Shall Lead Them: Robert Parris Moses and Civil Rights in Mississippi* (1994). More detail on the Selma to Montgomery march was obtained through John Lewis's *Walking with the Wind* (1998), David Halberstam's *The Children* (1998), David Garrow's *Bearing the Cross* (1986), and the National Park Service's *Selma to Montgomery Historic Trail Study: A Study of the Voting Rights March of 1965* (1993). Of great assistance in identifying sites were two travel guides: Davis Townsend's *Weary Feet and Rested Souls* (1998), a compendium of sites that serves both as a travel and commemorative guide to the landscape and geography of the civil rights movement in Alabama, Arkansas, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee; and Jim Carrier's *A Traveler's Guide to the Civil Rights Movement* (2004) with a state-by-state listing of sites in the South. For constitutional perspectives, Kermit L. Hall's (ed.), *The Oxford Companion to the*

Supreme Court of the United States (1992) placed court rulings within judicial and social contexts. As a primary source, the U.S. Supreme Court opinions on voting rights cases provided case background. A valuable resource for the American Indian story was James S. Olson's (ed.), *Encyclopedia of American Indian Civil Rights* (1997).

Site Verification and Integrity

National Park Service staff consulted with State Historic Preservation Offices that, when possible, verified properties and their degree of integrity through either site visits or previously conducted surveys. National Park Service staff also conducted site visits to places having a concentration of properties in Jackson, Mississippi, and Selma and Montgomery, Alabama.

Peer Review

This study was made available for national and state level review and for scholarly peer review. At the national level the study was reviewed by National Park Service staff in the National Register of Historic Places and National Historic Landmarks Programs, and National Park Service historians with expertise in African American and Native American history. Two historians conducted a scholarly peer review: Dr. Merline Pitre, professor of history, Texas Southern University, and Dr. Laurence Hauptman, SUNY Distinguished Professor of History, State University of New York, New Paltz. The study was made available for review and comment to all State, Federal, and Tribal Historic Preservation Officers via the internet. Other interested parties notified were the U.S. Commission on Civil Rights (USCCR), the Southern Christian Leadership Conference (SCLC), the Mexican American Legal Defense and Educational Fund (MALDEF), the National Association for the Advancement of Colored People (NAACP), the Asian American Legal Defense and Education Fund (AALDEF), the League of United Latin American Citizens (LULAC), and the National Association of Tribal Historic Preservation Officers.

SURVEY RESULTS

This section identifies properties associated with events considered nationally significant within the history of racial voting discrimination. These properties are divided into three categories: 1) Properties Recognized as Nationally Significant, 2) National Historic Landmarks Study List, and 3) Properties Removed from Further Study. The properties are further divided within each category according to the respective civil rights era established in the Registration Guidelines. Each listing notes the property name and location (shown in **bold**), the property's associated event or individual (shown in *italics*), and a statement of the property's significance. Properties are cross-referenced respectively in Tables 1 to 3 of this section. This is not an exhaustive list of properties that may be considered for designation under this study.

PROPERTIES RECOGNIZED AS NATIONALLY SIGNIFICANT

The properties listed below have either been designated by the Secretary of the Interior as a National Historic Landmark (NHL), or established by Congress as a National Historic Trail or a unit of the National Park System.

The Modern Civil Rights Movement, 1954-1964

Dorchester Academy Boys' Dormitory
Midway, Georgia (NHL, 2006)
Citizenship Education Programs
Dorchester Academy was the primary training site and headquarters for the Citizen Education Program of the Southern Christian Leadership Conference (SCLC) between 1961 and 1970. The program formed the basis for SCLC's Voter Education Project (VEP) and was responsible for educating thousands of southern blacks about their rights as American citizens, and providing them with the necessary skills to pass voter registration tests formulated to deny African Americans their right to vote. The dormitory is also associated with Septima Poinsette Clark whose vision and grassroots organizing made the program successful. Considered the "queen mother of the civil rights movement," Clark was responsible for developing the citizenship education model and overseeing the program from its inception.

Selma to Montgomery National Historic Trail, Alabama (designated 1996)
Selma to Montgomery March
This 54-mile trail commemorates the voting rights march led by Martin Luther King, Jr. on March 21-25, 1965, from Brown Chapel A.M.E. Church in Selma to the state capitol in Montgomery. The march along city streets and U.S. Highway 80 raised the national consciousness and convinced political leaders that the time had come for voting rights legislation. On August 6, 1965, President Lyndon B. Johnson signed the Voting Rights Act.

Brown Chapel African American Methodist Episcopal Church, Selma, Alabama (NHL, 1997)

Selma to Montgomery March

Brown Chapel is closely associated with the 1965 voting rights campaign organized by the Dallas County Voters League, the Student Nonviolent Coordinating Committee (SNCC), and SCLC. During the first three months of 1965, the church was the headquarters for SCLC, the site of rallies conducted by King and other SCLC and SNCC leaders, and the staging point for demonstrations, including the attempted march to Montgomery on March 7, known as "Bloody Sunday." The campaign directly contributed to the passage of the 1965 Voting Rights Act.

Martin Luther King, Jr. Historic District, Atlanta, Georgia (NHL, 1974)

Martin Luther King, Jr.

This district honors the nation's most prominent leader in the mid-20th century struggle for civil rights. The district includes King's birthplace, the church he pastored, and his grave.

Martin Luther King, Jr. National Historic Site and Preservation District, Atlanta, Georgia (designated 1980)

Martin Luther King, Jr.

This site focuses on King's early life and development and his later role in the founding of the SCLC and in the civil rights movement. The site includes the Martin Luther King, Jr. Historic District (above) along with the Sweet Auburn Historic District, the economic and cultural center of Atlanta's African American community during most of the 20th century.

NATIONAL HISTORIC LANDMARKS STUDY LIST

Properties on this study list have strong associations with nationally significant events within the racial voting context. Thus, this study recommends that these properties be evaluated to determine their relative significance and integrity for National Historic Landmark consideration. As noted in the registration guidelines, all evaluations must develop a full context associated with their respective significance, ascertain a high degree of integrity, and compare the subject property with others that share the same significance.

Properties on this list are associated with the African American era of the Modern Civil Rights Movement, 1954-1964. Properties for the remaining eras of Reconstruction and Repression, 1865-1900; Rekindling Civil Rights, 1900-1941; or Birth of the Civil Rights Movement, 1941-1954 either could not be ascertained or lacked integrity.

Each entry in this list indicates a property's integrity to the extent known when identified. Future evaluation may reveal that a property either did not have or has since lost the high degree of integrity required for landmark consideration. This is not an exhaustive list.

The Modern Civil Rights Movement, 1954-1964

Fifth Circuit Court of Appeals (renamed the Elbert P. Tuttle U.S. Court of Appeals Building which became the Eleventh Circuit in 1981), Atlanta, Georgia (National Register, 1974)
Fifth Circuit Court of Appeals (renamed the John Minor Wisdom U.S. Court of Appeals Building), New Orleans, Louisiana (National Register, 1974)
Old Post Office and Courthouse (renamed the Frank M. Johnson, Jr., Federal Building and U.S. Courthouse), Montgomery, Alabama (National Register, 1988)
Judicial rulings (1950s-1960s)
Together with the U.S. Supreme Court, these courts were the judicial bulwark against racial discrimination in the South. Fifth Circuit Court rulings served as judicial precedents with specific and broad applications in subsequent civil rights cases and formed the basis of nationally significant civil rights legislation, including the Voting Rights Act of 1965. (See also the National Historic Landmarks Theme Study *Racial Desegregation of Public Education in the United States*, 2000).

Butler Chapel AME Zion Church, Tuskegee, Alabama (National Register, 1995)
Gomillion v. Lightfoot (1960)
In a case that gave precedence to the issue of federal judicial intervention in state redistricting, the U.S. Supreme Court unanimously found that a 1957 Alabama statute changing Tuskegee's boundaries in a way that excluded all but four or five of its 400 black voters and none of its white voters violated the Fifteenth Amendment. Charles G. Gomillion, community activist and sociology professor at Tuskegee Institute, was the lead plaintiff in the case and leader of the Tuskegee Civic Association which campaigned to get blacks registered to vote. According to the National Register nomination, Butler Chapel "was the focal point for a multi-year grass roots project that united and empowered African Americans to fight for the right to vote." Other civil rights scholars refer to the case as a pivotal or turning point in constitutional law, one that laid the foundation to reapportionment decisions.

Penn School Historic District, Frogmore vicinity, South Carolina (NHL, 1974)
Citizenship School
Located on St. Helena Island, Penn School became the second location (besides the NHL Dorchester Academy in Georgia), from which SCLC conducted its Citizenship Education Program. While the Penn School Historic District was previously designated a National Historic Landmark as one of the first southern schools organized by northern missionaries for emancipated slaves, its contributions to the Citizenship Education Program (and the civil rights movement overall) should be assessed.

Peabody Hall, Miami University, Oxford, Ohio (Western Female Seminary, National Register, 1979)
1964 Freedom Summer
In June 1964, SNCC recruited northern college students for weeklong orientation sessions at this university as part of Mississippi's Freedom Summer to register as many black voters as possible. Freedom Summer contributed to pressures for the Voting Rights Act of 1965. The 300 mainly white middle-class volunteers received training in self-protection, voter registration, nonviolent direct action, and Mississippi race relations. SNCC considered white involvement important in developing national interest in the black plight for voters and gained national attention for the first time when affluent northern white students experienced the same dangers endured by civil rights workers. This hall was originally part of the Western College for Women and later the Western Female Seminary that closed in 1974 and was purchased by Miami University. The building appears to have a high degree of external integrity

Edmund Pettus Bridge, Selma, Alabama
(Alabama Register of Historic Sites and Places)
1965 Selma to Montgomery March
On March 7, 1965, in an event known as "Bloody Sunday," the national media broadcast images of the attack by troopers and the sheriff's posse on civil rights marchers at or near this bridge as they attempted to march from Selma to Montgomery in support of the black vote. This event, and the eventual completion of the march led by Martin Luther King, Jr. between March 21 and 25, prompted President Johnson to announce that he was sending new voting rights legislation to Congress.

Alabama State Capitol, Montgomery, Alabama (First Confederate Capitol, NHL, 1960)
1965 Selma to Montgomery March
As the destination of the Selma to Montgomery march, the capitol was the site of the closing rally and Martin Luther King's "How Long? Not Long" speech, one of his most memorable addresses, on March 25, 1965. The building was previously designated an NHL for its significance as the first Confederate capitol.

PROPERTIES REMOVED FROM FURTHER STUDY

For the benefit of future researchers, this category describes places that no longer exist or which lack the high degree of integrity needed for landmark designation. Events having no known associated property are also included. Properties listed here are associated with all eras of the African American story, and two eras within the American Indian story.

AFRICAN AMERICAN

Repressing Civil Rights, 1865-1900

Colfax Courthouse and Square – Grant Parish, Louisiana
U.S. v. Cruikshank (1876)
On Easter Sunday 1873, Democratic supporters killed at least 50 blacks at the courthouse and surrounding area over a disputed gubernatorial election in what has been described as the single bloodiest event in Reconstruction. In the resulting law suit (*U.S. v. Cruikshank,* 1876), the U.S. Supreme Court ruled that the Federal government could prosecute only state officials for civil rights violations, thus restricting federal authority over vigilante violence that would severely restrict black voter registration for decades. The courthouse no longer exists.

Rekindling Civil Rights, 1900-1941

Polling Place, Oklahoma
Guinn v. United States (1915)
This U.S. Supreme Court case overturned the legality of the grandfather clause. Oklahoma's grandfather clause effectively disenfranchised blacks through a 1910 amendment to the state's constitution that exempted from literacy tests all those who could vote prior to 1866. After Oklahoma voting registrars used this clause to keep blacks from voting in a congressional election, a U.S. government attorney filed charges. Although seen as having little impact, since Oklahoma was then the only state with a grandfather clause, the case has significance as the NAACP's "first move against disfranchisement" and the Court's "first really modern voting rights decision."[1] The polling place associated with this event could not be ascertained.

Birth of the Civil Rights Movement, 1941-1954

Polling Place, Houston, Texas
Smith v. Allwright, (1944)
This U.S. Supreme Court case ruled that white primaries violated the Fifteenth Amendment's prohibition against racial discrimination in voting. The decision ended a chief obstruction to black participation in southern elections and three decades of legal resistance against blacks by white segregationists and the Texas legislature. Thereafter, the only methods for restricting blacks from voting affected individuals rather than groups, including methods such as literacy tests and poll taxes. Constitutional scholars describe *Smith* as a "seminal case in the development of the 'public function' concept," whereby those activities traditionally undertaken by government—such as elections—are considered to be state action under the Constitution even

[1] Darlene Clark Hine, *Black Victory: The Rise and Fall of the White Primary in Texas* (Millwood, NY: KTO Press, 1979), 109. The NAACP filed an amicus brief (friend of the court) in the case.

if the activities are performed by private actors.[1] In this incident, election judges refused to give the plaintiff, Lonnie B. Smith, a ballot in the 1940 primary election based solely on race. Smith's polling place, a fire station in Houston's 5th ward, was demolished for a parking lot.

Virginia Durr House, Alexandria, Virginia
Poll tax abolishment
Virginia Durr
White civil rights activist Virginia Durr worked to successfully introduce congressional legislation to abolish the poll tax in the 1940s. Despite failure (the tax was not repealed until the Twenty-Fourth Amendment), Durr was instrumental in helping shape and carry forth the suffrage agenda throughout the South and the country during the early years of the civil rights movement. The Durr House no longer retains a high degree of integrity due to renovations. (The Railway Brotherhood Building in Washington, D.C., that housed Durr's National Committee to Abolish the Poll Tax sometime between 1941-1948, appears to no longer exist.)

The Modern Civil Rights Movement, 1954-1964

Highlander Folk School, Monteagle, Tennessee
Civil rights training center
Septima Poinsette Clark
Founded in 1932 as a center for labor education in the South, this school became a training center for the civil rights movement in the mid-1950s with attendees such as Martin Luther King, Jr., Rosa Parks, and prominent student leaders. Following government investigations in the late 1950s, the school's charter was revoked and the school closed in December 1961. The property was then auctioned off. (Thereafter, school leaders secured a charter for the Highlander Research and Education Center in Knoxville where it remained until 1971.) The school is also associated with Septima Poinsette Clark, "queen mother of the civil rights movement" and the school's director of education. The school building in Monteagle no longer retains integrity due to interior and exterior alterations.

Progressive Club, Johns Island, South Carolina (National Register, 2007)
Citizenship classes
Beginning in 1957, Esau Jenkins, a black leader from Johns Island, started the first citizenship classes in the nation in two back rooms of a cooperative general store. Jenkins had attended a workshop at Highlander Folk School in 1954 where, with encouragement from Septima Poinsette Clark, the idea emerged for Jenkins to start a citizenship school on the island. The building where these first classes took place was demolished and replaced in 1963 and citizenship classes reportedly continued. The replacement building no longer has a high degree of integrity due to extensive deterioration, and by the time of its construction SCLC had taken over the Citizenship School program in 1961 and established two centers: the Dorchester Boys' Dormitory NHL in Georgia, and the Penn School Historic District NHL in South Carolina.

Masonic Temple, Jackson, Mississippi
1963 Freedom Vote
1964 founding of the Mississippi Freedom Democratic Party (MPDF)
This temple was the site of major political conventions in Mississippi between 1963 and 1964. The Council of Federated Organizations (COFO, a united front of civil rights groups) met here in

[1] Kermit L. Hall, *The Oxford Companion to the Supreme Court of the United States* (New York: Oxford University Press, 1992), 800.

October 1963 and formulated the concept of a Freedom Vote among unregistered blacks. The founding convention of the MFDP in April 1964 also occurred here and at its August 1964 convention chose a delegation to challenge the all-white Mississippi Democratic Party at the Democratic National Convention (DNC) in New Jersey. It was at the DNC where MFDP delegate, Fannie Lou Hamer, gave her impassioned statement on the state of black relations in Mississippi before a national television audience. The building housed the office of the first NAACP field secretary in the state, Medgar Evers, whose assassination in 1963 stunned the nation. The building no longer retains a high degree of integrity due to alterations.

Neshoba County Jail, Philadelphia, Mississippi (Downtown Philadelphia Historic District, National Register, 2005)

1964 Freedom Summer murders

This jail is associated with the murders of two white and one black civil rights workers: James Chaney, Andrew Goodman, and Michael Schwerner, who were working on the 1964 Freedom Summer campaign. The murders drew national attention to the violence that black people and their allies faced. The three workers had traveled to Longdale, outside Philadelphia, to investigate the burning of a black church used as a Freedom School. They were arrested in Philadelphia and held at this jail. After apparently being released, they vanished and were later found dead. Their disappearance generated national and international publicity and forced the previously recalcitrant Federal government to mount an FBI investigation. The building no longer retains integrity due to alterations.

Brown Church Parsonage – Selma, Alabama

Selma to Montgomery marches

During the Selma to Montgomery marches, doctors and nurses from an organization in New York staffed a makeshift clinic at this parsonage. (Brown Chapel was previously listed as an NHL.) The parsonage existing at the time has been demolished.

AMERICAN INDIAN

<u>Assimilation and Allotment Era, 1871-1934</u>

Polling Place, Douglas County, Omaha, Nebraska

Elk v. Wilkins (1884)

This U.S. Supreme Court case ruled that Indians born to an Indian nation were not U.S. citizens under the Fourteenth Amendment and therefore were ineligible to vote. In April 1880, registrar Charles Wilkins refused John Elk, an English-speaking farmer, the opportunity to register as a qualified voter for the sole reason that he was an Indian and therefore not a U.S. citizen entitled to vote. Election judges at the polling place refused to accept Elk's ballot for the city council elections because he was not a registered voter. Elk declared that he was born in the United States, had severed his tribal relations, surrendered himself to the jurisdiction of the U.S. government, and had the right to vote under the Fourteenth and Fifteenth Amendments of the Constitution. Those who feared the Court's decision would retard the assimilation of Indians supported the Dawes Act of 1887 that broke up reservation land and gave title to smaller parcels

along with full citizenship to individual Indians. A property associated with this legal case could not be ascertained.

Termination Era, 1946-1970

Polling Place, Maricopa County, Arizona
Harrison v. Laveen (1948)
A milestone in Indian voting rights evolved from this case after the Federal government and national organizations succeeded in overturning a 20-year-old Arizona Supreme Court ruling (*Porter v. Hall*) that found Indians were "persons under guardianship" and therefore not qualified to vote in any election. Even though the Snyder Act of 1924 had conferred citizenship on all Indians, some state governments continued to refuse Indians the right to vote. In Arizona, state laws restricted American Indian voter eligibility to those who were citizens, residents, and taxpayers. Two Yavapai men filed a lawsuit after the country registrar refused to register them to vote. Filing briefs in the case of *Harrison v. Laveen* before the Arizona Supreme Court were the Justice Department, the Interior Department (including Felix S. Cohen, the leading Indian law specialist, with encouragement from Eleanor Roosevelt), the American Civil Liberties Union, and the National Congress of American Indians (a nonpartisan political action organization). A property associated with this event could not be ascertained.

Table 1. Properties Recognized as Nationally Significant

Properties listed below were designated by the Secretary of the Interior as a National Historic Landmark (NHL) or established by Congress as a National Historic Trail or a unit of the National Park System.

Property	Event/Individual
Modern Civil Rights Movement, 1954-1964	
1. Dorchester Academy Boys' Dormitory Midway, Georgia (NHL, 2006)	SCLC's Citizenship Education Programs Septima Clark
2. Selma to Montgomery National Historic Trail Alabama (designated 1996)	1965 Selma to Montgomery march
3. Brown Chapel African American Methodist Episcopal Church Selma, Alabama (NHL, 1997)	1965 Selma to Montgomery march
4. Martin Luther King, Jr. Historic District Atlanta, Georgia (NHL, 1974)	Martin Luther King, Jr.
5. Martin Luther King, Jr. National Historic Site and Preservation District Atlanta, Georgia (designated 1980)	Martin Luther King, Jr.

Table 2. National Historic Landmarks Study List

Properties in this table are recommended for further study for National Historic Landmark consideration. This is not an exhaustive list of properties that may be eligible for consideration.

Property	Event/Individual
Modern Civil Rights Movement, 1954-1964	
1. Fifth Circuit Court of Appeals Atlanta, Georgia 2. Fifth Circuit Court of Appeals New Orleans, Louisiana 3. Post Office and Courthouse Montgomery, Alabama	Judicial rulings
4. Butler Chapel AME Zion Church Tuskegee, Alabama (NR, 1995)	*Gomillion v. Lightfoot* (1960)
5. Penn School Historic District Frogmore, South Carolina (NHL, 1974)	SCLC Citizenship School
6. Peabody Hall Miami University, Oxford, Ohio	1964 Freedom Summer
7. Edmund Pettus Bridge Selma, Alabama	1965 Selma to Montgomery march
8. Alabama State Capitol Montgomery, Alabama (NHL, 1960)	1965 Selma to Montgomery march

Table 3. Properties Removed from Further Study

Properties in this table have either been demolished, lack a high degree of integrity, or could not be located.

Property	Event/Individual
Repressing Civil Rights, 1865-1900	
1. Colfax Courthouse and Square Grant Parish, Louisiana	*U.S. v. Cruikshank* (1876)
Rekindling Civil Rights, 1900-1941	
2. Polling Place Oklahoma	*Guinn v. United States* (1915)
Birth of the Civil Rights Movement, 1941-1954	
3. Polling Place Houston, Texas	*Smith v. Allwright* (1944)
4. Virginia Durr House Alexandria, Virginia	Campaign to abolish the poll tax
The Modern Civil Rights Movement, 1954-1964	
6. Highlander Folk School Monteagle, Tennessee	Civil rights training Septima Poinsette Clark
9. Progressive Club Johns Island, South Carolina	Citizenship classes.
7. Masonic Temple Jackson, Mississippi	1963 Mississippi freedom vote 1964 MFDP convention
8. Neshoba County Jail (NR, 2005) Philadelphia, Mississippi	1964 Freedom summer murders
5. Brown Church Parsonage Selma, Alabama	1965 Selma to Montgomery march
American Indian Assimilation and Allotment Era, 1871-1934	
10. Polling Place Omaha, Nebraska	*Elk v. Wilkins* (1884).
Termination Era, 1946-1970	
11. Polling Place Maricopa County, Arizona	*Harrison v. Laveen* (1948)

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APPENDICES

APPENDIX A. SELMA TO MONTGOMERY MARCH: CHRONOLOGY OF EVENTS*

January 2, 1965. Martin Luther King, Jr. and Southern Christian Leadership Conference (SCLC) organizers defied the July 1964 circuit court order forbidding discussion of racial issues at any gathering of three or more people in Dallas County by meeting at Brown Chapel AME Church in Selma, effectively beginning the campaign for voting rights in Alabama. Open defiance paved the way for confrontation in upcoming months. The Dallas County Voters League (DCVL), SCLC and the Student Nonviolent Coordinating Committee (SNCC) mounted daily demonstrations to gain voting rights in Dallas and Selma counties.

January 14. King addressed a mass meeting at First Baptist Church calling for Monday, January 18, to be Freedom Day when people would march to the Selma courthouse, apply for whites-only city jobs, and integrate Selma's hotels and restaurants under the 1964 Civil Rights Act.

January 18. King led a march out of Brown Chapel to Dallas County courthouse. During the attempt to integrate Albert Hotel, King was assaulted by a member of the National States Rights Party.

January 19. After marching to the courthouse, sixty-seven were arrested. (Lewis, 321) SCLC's Hosea Williams and SNCC chairman John Lewis were among prospective voter registrants arrested along Alabama Avenue while waiting entry to registrar's office. (Lewis states this occurs on the 21st, 322)

January 20. Three waves of marches ended in more than 200 arrests.

January 22. A total of 110 teachers marched from Clark Elementary School to the courthouse steps where they were rebuffed and shoved down the steps. Teachers then marched to Brown Chapel. King preached at two churches that night.

January 25. King led 200 people down Alabama Avenue to the courthouse resulting in arrests. King preached at a mass meeting at Tabernacle Baptist Church that night.

February 1. King announced plans to expand Freedom Day to Perry County. He led a mass march from Brown Chapel. The day ended in 770 arrests including King and Reverend Abernathy.

February 2. Hosea Williams led a march that resulted in 520 arrests.

February 3. Five hundred protesters were arrested in Marion at the Perry County courthouse.

February 5. Fifteen U.S. Congressmen toured Selma. Sheriff Clark arrested 500 marchers at the courthouse. (Lewis, 325)

February 10. Marchers left Brown Chapel for the courthouse. Sheriff herded students out of town. SNCC held a midnight strategy session at the Torch Motel.

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* Sources include John Lewis with Michael D'Orso, *Walking with the Wind: A Memoir of the Movement* (New York: Simon & Schuster, 1998); David Halberstam, *The Children* (New York: Random House, 1998); Ralph E. Luker, *Historical Dictionary of the Civil Rights Movement* (Lanham, MD: Scarecrow Press, Inc., 1997).

February 16. National television cameras captured the assault by the Dallas County deputy sheriff on SCLC staff member Reverend Cordy Tindnell (C. T.) Vivian during a demonstration on the courthouse steps.

February 18. In Marion, Alabama, the police chief ordered 450 marchers leaving Zion Methodist Church to disperse from the street. Chaos ensued, streetlights were extinguished, and the police and troopers assaulted the marchers. Some protesters sought refuge in nearby Mack's Café where police attacked Viola Jackson, her son Jimmie Lee Jackson, and his grandfather Cager Lee Jackson. Police shot Jimmie Lee who died seven days later. At the funeral, King and James Bevel announced plans for a voting rights march in Jackson's memory.

March 6. A sympathetic white group marched to the Selma courthouse. (Lewis, 330)

March 7. Bloody Sunday. Marchers gathered at the ballfield and basketball courts beside and beyond Brown's Chapel to start the march. (Lewis, 336) Television cameras recorded Alabama state troopers and mounted patrolmen attacking 600 marchers led by SCLC's Hosea Williams and SNCC's John Lewis while crossing the Edmund Pettus Bridge.

March 9. King led marchers across the bridge, kneeling in prayer before the police line and turned back in reverence to a court order. Outside the Silver Moon Café in Selma, a group of whites attacked three ministers from Boston who had come to join the march. Reverend James J. Reeb died two days later.

March 15. The deaths of Jackson and Reeb, and the Bloody Sunday violence, prompted President Lyndon B. Johnson to appear on national television and announce that he would send voters' right legislation to Congress, stating "We shall overcome."

March 17. Judge Frank M. Johnson lifted the ban on the Selma to Montgomery march.

March 20. After Governor George Wallace declared that he could not protect the marchers, President Johnson nationalized 4,000 Alabama National Guardsmen and mobilized regular troops, FBI agents, and federal marshals to safeguard marchers.

March 21. King and over 3,000 marchers began the 54-mile journey from Selma to Montgomery. Marchers covered seven miles and erected a campsite near David Hall's farmhouse outside town of Casey. Due to the reduced road width, only 300 marchers continued the trip to Montgomery, while the remaining marchers returned to Selma.

March 22. Marchers traveled 16 miles to Petronia in Lowndes County.

March 23. Marchers traveled 11 miles to a campsite near the Montgomery County line.

March 24. Marchers traveled 16 miles to the City of St. Jude, a Catholic hospital and school just outside the Montgomery city limits.

March 25. Several thousand additional protesters joined the 300 marchers at St. Jude. King led 25,000 people through Montgomery's west side and up Dexter Avenue, past the Dexter Avenue Baptist Church to the steps of the capitol building. King gave his "How Long, Not Long" speech.

Ku Klux Klan members attacked Viola Gregg Liuzzo, a white housewife from Michigan, and Leroy Moton, her black friend, near White Chapel while driving from Selma to Montgomery to take marchers home. Liuzzo died instantly from gunfire.

May 26. The Senate approved the Voting Rights Act.

July 9. The House passed the Voting Rights Act.

August 6. President Johnson signed the Voting Rights Act.

APPENDIX B. CHRONOLOGY OF MISSISSIPPI VOTING CAMPAIGN, 1961-1964*

August 7, 1961. The first voter education class in McComb took place in a voting campaign initiated by SNCC field secretary Robert Moses. (Burner, 44)

September 5, 1961. A voter is attacked for attempting to vote at the courthouse in Liberty. Moses retreated to McComb. Others who attempted to register at the courthouse in Tylertown were beaten. The registrant planning to press charges was instead arrested for disturbing the peace. (Branch, 503-04)

September 24. Attorney General John Doar met Moses at Eldridge W. (E. W.) Steptoe's farm (former president of the county NAACP before sheriff shut it down) to investigate charges of violence.

September 25. Representative E. H. Hurst killed Herbert Lee, a black farmer, who was aiding SNCC. Doar investigated the killing, but no charges developed. (Branch, 508-09) In McComb, no one chose to participate in registration classes, and the Masonic Temple was closed to SNCC. Moses and others went to Amzie Moore's house and met with SNCC's James Bevel and Diane Nash. (Branch, 560)

Over 100 students, Moses, and SNCC workers were arrested (workers were beaten) following an attempt to pray at McComb's City Hall in what became the first mass civil rights arrest in the history of Mississippi. Doar arrived, and Moses and others were charged with disturbing the peace. Harry Belafonte sent $5,000 bail money. (Branch, 512-14)

Spring 1962. Moses worked toward establishing "tiny registration projects" in Mississippi, north of the Delta, and took colleagues to Highlander Folk School for a nonviolent registration workshop. (Branch, 634)

August 1962. Moses took 25 registrants to the courthouse in Greenwood. A CBS film crew and reporters were present. Later, SNCC worker Sam Block was beaten. Classes were held in the SNCC office off Broad Street. The office, after being ransacked by whites, was closed. Another office opened five months later. (Branch, 633-34)

Shortly after the raid, Moses, SCLC, the Congress of Racial Equality (CORE), the Mississippi NAACP, and SNCC met in a church basement in Clarksdale with Wiley Branton, head of the Voter Education Project (VEP), to discuss registration funds. The Council of Federated Organizations (COFO), a united front of rights groups, was founded with Aaron Henry as president and Moses as director of voter registration. Following the meeting, Moses and others were arrested and bailed out. (Branch, 635-36)

August 30. Moses attempted to register voters in a courthouse in Indianola (Sunflower County). Moses was arrested on the return trip. Night riders fired shots into two homes housing campaign workers. At Ruleville's Willams Chapel, the only church hosting registration meetings, the water was turned off and the insurance company cancelled its policy. No one attended classes

* Sources include Taylor Branch, *Pillar of Fire: America in the King Years, 1963-65* (New York: Simon & Schuster, 1998); Eric R. Burner, *And Gently He Shall Lead Them: Robert Parris Moses and Civil Rights in Mississippi* (New York: New York University Press, 1994).

anywhere. During an unrelated news conference, President Kennedy denounced the Ruleville shootings and other violence. His words were described as the "[s]trongest statement on civil rights to date." (Branch, 637-39) SNCC workers were present in six Delta counties.

December 1962. Moses reported three obstacles to registration to VEP: 1) the White Citizens' Council, 2) lack of Justice Department action to secure safe registration, and 3) lack of mass uprising by blacks to demand an immediate right to vote.

January 1, 1963. Moses filed a lawsuit against Kennedy and J. Edgar Hoover to enforce a federal code making it a crime to harass or intimidate voter registrants. The Justice Department blocked the suit. Mississippi shut off federal food surplus to two counties. The VEP threatened closure of funds after Moses used funds to purchase food and clothing. (Branch, 712-13)

February 20. Threats to burn the SNCC office resulted in the loss of four black businesses, but the office was undamaged. The arrest and conviction of SNCC worker Sam Block, who refused to end the campaign, resulted in a record 250-person mass meeting. Blacks lined up to register. While driving a VEP representative and Moses to a VEP visit, Jimmy Travis was shot, setting off more aggressive voting training. Black churches opened their doors to registration classes and Bevel took a busload of Greenwood citizens to Dorchester for training. Branton telegrammed Kennedy to announce a saturated campaign in LeFlore County. Attorney General Robert Kennedy sent lawyers to investigate the suspended food relief. (Branch, 715-18)

March 27. Escalating violence in the county prompted a mass meeting at Wesley Chapel. A march was held to protest the lack of police protection and to register to vote. Violence ensued at city hall when police with dogs surged into the crowd of marchers who returned to Wesley. The decision to proceed to the courthouse was thwarted by police who arrested Moses and seven others. National reporters were in Greenwood. The next day, police and dogs confronted 42 blacks on a trip from the courthouse back to Wesley. A police dog bit a pastor, and police absconded CBS's film.

March 29. A *New York Times* front page article showed officers and a police dog. Moses, James Forman, and six SNCC registration workers were convicted of disorderly conduct. During the trial, Doar succeeded in dropping the convictions of SNCC workers as illegal interference with the right to vote. Registration marches were held in Greenwood. The Greenwood Movement fizzled as civil rights events in Birmingham heated up. Blacks were allowed to register, but officials determined who could vote. (Branch, 719-25)

May 8. In Holmes County, Mileston, Mississippi, Hartman Turnbow, the first black to attempt to register, exchanged gunfire with armed whites who firebombed his house. The sheriff arrested Moses, Turnbow, and three SNCC workers for arson and related crimes. (Branch, 781-82)

June 9. Annell Ponder of SCLC and others on their way to a week-long training workshop in Greenwood were arrested at a bus rest stop in Winona, thirty miles from Greenwood, for attempting to take down police license tags after being thrown out of the rest stop for entering a white waiting room. Three activists were beaten at the jail, including Fannie Lou Hamer. They were released from jail the same day Medgar Evers was shot. Doar worked on the Winona federal suits. (Branch, 819, 825) The trial at the federal building in Oxford resulted in acquittals of the law enforcement officers. (Branch, 192)

October. In the Freedom Vote, 80,000 blacks registered in an election. The campaign was launched October 6 in Jackson's Masonic Temple.

January 21-23, 1964. Civil rights leaders gathered at Hattiesburg for Freedom Day held at St. Paul's AME Church, January 21, 1964; the final mass meeting of over 400 participants. On January 22, auxiliary police stationed at the Forest County courthouse to protect registrants, were the first to protect a civil rights protest. The city avoided a publicity "black eye." Reporters and network camera crew were present. Moses was arrested. Protesters marched again on January 23rd. Clergy from across the country replaced each other in week-long shifts, into at least July, in what never became a major news story. On one day, over 600 people attended Hattiesburg's five Freedom Schools that were intended for 100 students. (Branch, 215-20, 392-94)

February 1. A black witness, Louis Allen, was murdered apparently after local police learned that Allen wanted to tell the truth about the Lee shooting. (Burner, 58-59)

April 26. The founding convention of the Mississippi Freedom Democratic Party (MFDP) took place at the Masonic Temple in Jackson. (Branch, 296-97)

June 8. A self-generated citizen's hearing took place at the National Theater. Moses, Turnbow, and Hamer were present. (Branch 329, 330)

July 23. King met Moses at Tougaloo College to discuss tactics regarding the MFDP challenge to the all-white delegation at the upcoming Democratic National Convention. (Branch, 412-13)

August 4. The bodies of Michael Schwerner and James Chaney, who worked for the Congress on Racial Equality (CORE), and Andrew Goodman, a summer volunteer from Queens, New York, were discovered.

August 6. MFDP held its own state convention with 2,000 present at Jackson's Masonic Temple to select delegates to the Democratic National Convention. (Burner, 170)

APPENDIX C. CHRONOLOGY OF AFRICAN AMERICAN VOTING RIGHTS-RELATED CASES*

Described below is a list of U.S. Supreme Court cases and selected lower federal court cases associated with racial voting rights. Divided into the chronological eras contained in this study's registration guidelines, the cases reflect the history of the nation's civil rights eras.

Reconstruction and Repression, 1865-1900

United States v. Reese, 92 U.S. 214 (1876), Kentucky
This was the Supreme Court's first voting rights case heard under the Fifteenth Amendment that prohibited racial discrimination in voting rights and the Enforcement Act of 1870 that required elections be conducted without regard to race. In this case, a voting official was indicted for not casting a black man's vote in a municipal election. The Court found that the Fifteenth Amendment did not confer the right to vote. This ruling gave states the ability to use tests to exclude African Americans from voting.

United States v. Cruikshank, 92 U.S. 542 (1876), Louisiana
Decided the same day as *United States v. Reese* (above), the Supreme Court ruled that the Justice Department could not use the Enforcement Act to prosecute private individuals for civil rights violations. Thus, the Federal government could only prosecute state officials. This case arose from the Colfax Massacre of 1873 when an armed white force killed African Americans at the Colfax Courthouse and the surrounding square over a contested gubernatorial election. "The *Cruikshank* opinion encouraged violence in the Reconstruction South and is one of several Supreme Court decisions that marked the nation's retreat from Reconstruction." (Hall, 209)

Ex Parte Yarbrough, 110 U.S. 651 (1884), Georgia
This case held that encroaching on the voting rights of blacks violated the Fifteenth Amendment. The case arose after eight Ku Klux Klansmen beat a black man at his home for trying to vote in a federal congressional election. This decision was "exceptional in its time" as the one moment in Reconstruction when "the Supreme Court upheld federal power to punish private obstruction of someone's voting rights." (Hall, 946-47).

Williams v. Mississippi, 170 U.S. 213 (1898), Mississippi
In *Williams*, the Supreme Court validated Mississippi's literacy test and found it lawful under the Fifteenth Amendment. The Court ruled that the literacy test was written in a manner that did not discriminate on the basis of race, and consequently the tests themselves served as a legitimate means of discerning voter eligibility. (Not a voting rights case, this case arose when a black man, convicted of murder, claimed violation of the Equal Protection Clause of the Fourteenth Amendment because blacks were excluded from juries since none could serve due to exclusionary tests and devices.)

* Sources used in this summation include Mark Grossman, *The ABC-CLIO Companion to the Civil Rights Movement* (Santa Barbara: ABC-CLIO, Inc., 1993); Kermit L. Hall, *The Oxford Companion to the Supreme Court of the United States* (New York: Oxford University Press, 1992); Darlene Clark Hine, *Black Victory: The Rise and Fall of the White Primary in Texas* (Millwood, New York: KTO Press, 1979); and Ralph E. Luker, *Historical Dictionary of the Civil Rights Movement* (Lanham, MD: Scarecrow Press, Inc., 1997).

Rekindling Civil Rights, 1900-1941

Guinn v. United States, 238 U.S. 347 (1915), Oklahoma
In this case, the Supreme Court struck down the grandfather clause as unconstitutional. A 1910 amendment to Oklahoma's Constitution allowed those whose grandfathers had voted before 1866 the right to vote, thereby making blacks ineligible to vote. A U.S. government attorney filed suit against two voting registrars for not allowing blacks to register and vote in federal elections based on Oklahoma's grandfather clause. At this time, only Oklahoma retained a grandfather clause, making the Court's decision "neither inevitable nor particularly progressive." (Hall, 356) However, "[t]he Guinn case was the first really modern voting rights decision." (Hine, 109)

Nixon v. Herndon, 273 U.S. 536 (1927), Texas
Nixon is the first in a series of cases to strike down the "white primaries." In this case, the Supreme Court found that a Texas law barring blacks from voting for racial reasons violated the equal protection clause of the Fourteenth Amendment. Texas then gave the power of selecting the qualifications of voters to the state Democratic Party.

Nixon v. Condon, 286 U.S. 73 (1932), Texas
After the Supreme Court's decision in *Nixon v. Herndon* (above), Texas conferred the power to determine voter qualifications to the state party executive committees. The Court found this to be a state action and therefore not constitutional. Texas then repealed its primary election statutes so that state party conventions could exclude black voters.

Grovey v. Townsend, 295 U.S. 45 (1935), Texas
The Supreme Court upheld the white primary when it found the Democratic Party was a voluntary association, and therefore the party's decision to exclude blacks was not a state action. This decision was reversed in *Smith v. Allwright* (below).

Birth of the Civil Rights Movement, 1941-1954

United States v. Classic, 313 U.S. 299 (1941), Louisiana
In this case, the Supreme Court found that Congress could regulate primary and general elections for federal office. Brought forth by the newly created Civil Rights Division of the Justice Department, the decision made the ruling in *Smith v. Allwright* (below) inevitable.

Smith v. Allwright, 321 U.S. 649 (1944), Texas
In a case presented by the NAACP, the Supreme Court reversed its decision in *Grovey* (above) and found the white primary unconstitutional. "Constitutional scholars cite *Allwright* as one of the seminal cases in the development of the 'public function' concept." After *Allwright*, cases concentrated on individual rights to vote, as opposed to group rights, through literacy tests and poll taxes. (Hall, 800)

Rice v. Elmore, 165 F. 2d 387 (4th Cir., 1947), South Carolina
Extending its ruling in *Smith v. Allwright* (above) a federal circuit court found that party primaries were public events "from which African Americans could not be excluded." (Luker, 219)

Davis v. Schnell, 81 F. Supp. 872 (S.D. Ala., 1949); *Schnell v. Davis*, 336 U.S. 933 (1949), Alabama
A federal district court restricted voter registrars from using a literacy test to arbitrarily discriminate against blacks. The decision was sustained by the U.S. Supreme Court. (Luker, 70)

South v. Peters, 339 U.S. 276 (1950), Georgia
The Supreme Court upheld the constitutionality of Georgia's county unit system of voting. In statewide elections, this system gave an advantage to voters in the state's many small rural counties and was disadvantageous to voters in the fewer urban counties where African Americans were more likely registered to vote. The Court overturned this decision in 1962 and 1964. (See *Baker v. Carr* and *Reynolds v. Sims* below.)

Terry v. Adams, 345 U.S. 461 (1953), Texas
This case was the last of the "white primary" cases that "provided a precedent for Congressional proscription of private racial discrimination under the Fifteenth Amendment in later federal legislation such as the Voting Rights Act of 1965." (Hall, 865)

The Modern Civil Rights Movement, 1954-1965

McDonald v. Key, 224 F.2d 608 (10th Cir., 1955), Oklahoma
"Racial designations on ballots violated the Fourteenth Amendment's equal protection requirement." (Luker, 170) The U.S. Supreme Court refused to hear this case.

Gomillion v. Lightfoot, 364 U.S. 339 (1960), Alabama
The U.S. Supreme Court found unconstitutional an Alabama statute that redrew the city boundaries of Tuskegee with the effect of excluding almost all of the city's four hundred black voters, but none of its white voters. The case "[s]et a precedent for Federal judicial intervention in state redistricting and for later one-person, one-vote decisions that would affect legislative apportionments across the country." The issue was taken up more directly in *Reynolds* (1964, below). (Luker, 103)

United States v. Raines, 362 U.S. 17 (1960), Georgia
"Court upheld constitutionality of the Civil Rights Act of 1957 that authorized the attorney general to seek a federal court injunction against persons who deprived others of the right to vote because of their race." (Luker, 268)

Baker v. Carr, 369 U.S. 186 (1962), Tennessee
The Court declared "that apportionment issues were cognizable under the Fourteenth Amendment's Equal Protection Clause." (Hall, 164)

Kennedy v. Bruce, 298 F.2d 860 (5th Cir., 1962), Alabama
This case gave the Justice Department authority to review local voter registration lists if reasonable grounds existed showing that some citizens were denied the right to vote.

Gray v. Sanders, 372 U.S. 368 (1963), Georgia
This Supreme Court case "proved to be the jurisprudential steppingstone between *Baker v. Carr* (1962, above) and the 1964 legislative reapportionment cases." (Hall, 346)

Reynolds v. Sims, 377 U.S. 533 (1964), Alabama
The Court found that "[r]eapportionment of state legislatures which disenfranchises any citizen is unconstitutional and that federal courts had the authority to prevent it." (Luker, 218) The Court "embraced the principle of equal representation for equal number of votes." (Hall, 900)

United States v. Ward, 352 F.2d 329 (5th Cir., 1965), Louisiana
The "Court froze restrictive voter registration requirements in Louisiana for two years. . . . to allow all applicants to be registered under the less restrictive requirements that were applied to white applicants." (Luker, 270)

Fortson v. Dorsey, 379 U.S. 433 (1965), Georgia
The Court found that multimember districts may be unconstitutional in some instances.

Harman v. Forssenius, 380 U.S. 528 (1965), Virginia
The Court found unconstitutional the state's attempt to levy a poll tax. (Luker, 113)

Louisiana v. United States, 380 U.S. 145 (1965), Louisiana
Even though the Court had earlier (1949) affirmed a lower court's decision invalidating Alabama's understanding test, several southern states persisted in the practice. *Louisiana* struck down the practice of understanding tests. (Hall, 886)

United States v. Lynd, 349 F.2d 785 (5th Cir., 1965), Mississippi
The Fifth Circuit Court of Appeals ordered the state's voter registrar to end discrimination against African American applicants.

South Carolina v. Katzenbach, 383 U.S. 301 (1966), South Carolina
The Supreme Court upheld the constitutionality of the Voting Rights Act of 1965 after South Carolina sought to prevent enforcement of some of the act's provisions such as banning literacy tests for voter registration. (Luker, 241) The case was "a milestone in the development of congressional power to enforce the Civil War Amendments." (Hall, 805-06)

Harper v. Virginia Board of Elections, 383 U.S. 663 (1966), Virginia
The Supreme Court found the state's poll tax unconstitutional in state and local elections. This ruling's impact was limited since only three other states used poll taxes (Alabama, Texas, and Mississippi). (Hall, 366)

Katzenbach v. Morgan, 384 U.S. 641 (1966), New York
The Supreme Court determined that Congress had authority to prohibit literacy tests. A New York resident had sued the Attorney General to prevent those Puerto Ricans who lacked familiarity with the English language from voting.